

Calendar No. 295

103D CONGRESS
1ST SESSION

S. 1668

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17 (legislative day, NOVEMBER 2), 1993

Mr. MOYNIHAN, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Social Security Act
5 Amendments of 1993”.

6 SEC. 2. REFERENCES IN ACT; TABLE OF CONTENTS.

7 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
8 cept as otherwise specifically provided, whenever in this

1 Act an amendment is expressed in terms of an amendment
 2 to or repeal of a section or other provision, the reference
 3 shall be considered to be made to that section or other
 4 provision of the Social Security Act.

5 (b) REFERENCES TO OBRA.—In this Act, the terms
 6 “OBRA-1986”, “OBRA-1987”, “OBRA-1989”,
 7 “OBRA-1990”, and “OBRA-1993” refer to the Omnibus
 8 Budget Reconciliation Act of 1986 (Public Law 99-509),
 9 the Omnibus Budget Reconciliation Act of 1987 (Public
 10 Law 100-203), the Omnibus Budget Reconciliation Act
 11 of 1989 (Public Law 101-239), the Omnibus Budget Rec-
 12 onciliation Act of 1990 (Public Law 101-508), and the
 13 Omnibus Budget Reconciliation Act of 1993 (Public Law
 14 103-66), respectively.

15 (c) TABLE OF CONTENTS.—The table of contents is
 16 as follows:

Sec. 1. Short title.

Sec. 2. References in Act; table of contents.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

Sec. 101. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.

Sec. 102. Essential access community hospital (EACH) amendments.

Sec. 103. Provisions relating to rural health transition grant program.

Sec. 104. Psychology services in hospitals.

Sec. 105. Medicare-dependent, small rural hospitals and sole community hospitals.

Sec. 106. Skilled nursing facilities.

Sec. 107. Notification of availability of hospice benefit.

Sec. 108. Clarifying expertise of individuals to serve on the Prospective Payment Assessment Commission.

Sec. 109. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.

Sec. 110. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

- Sec. 121. Development and implementation of resource-based methodology for practice expenses.
- Sec. 122. Geographic cost of practice index refinements.
- Sec. 123. Extra-billing limits.
- Sec. 124. Relative values for pediatric services.
- Sec. 125. Administration of claims relating to physicians' services.
- Sec. 126. Miscellaneous and technical corrections.

PART II—DURABLE MEDICAL EQUIPMENT

- Sec. 131. Certification of suppliers.
- Sec. 132. Prohibition against carrier forum shopping.
- Sec. 133. Restrictions on certain marketing and sales activities.
- Sec. 134. Kickback clarification.
- Sec. 135. Beneficiary liability for noncovered services.
- Sec. 136. Adjustments for inherent reasonableness.
- Sec. 137. Miscellaneous and technical corrections.

PART III—OTHER ITEMS AND SERVICES

- Sec. 141. Ambulatory surgical center services.
- Sec. 142. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
- Sec. 143. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
- Sec. 144. Payment of part B premium late enrollment penalties by States.
- Sec. 145. Treatment of inpatients and provision of diagnostic x-ray services by rural health clinics and federally qualified health centers.
- Sec. 146. Application of mammography certification requirements.
- Sec. 147. Coverage of services of speech-language pathologists and audiologists.
- Sec. 148. Miscellaneous and technical corrections.

Subtitle C—Provisions Relating to Parts A and B

- Sec. 151. Medicare secondary payer reforms.
- Sec. 152. Physician ownership and referral.
- Sec. 153. Definition of FMGEMS examination for payment of direct graduate medical education.
- Sec. 154. Qualified medicare beneficiary outreach.
- Sec. 155. Hospital agreements with organ procurement organizations.
- Sec. 156. Peer review organizations.
- Sec. 157. Health maintenance organizations.
- Sec. 158. Home health agencies.
- Sec. 159. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
- Sec. 160. Miscellaneous and technical corrections.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

- Sec. 171. Standards for medicare supplemental insurance policies.

TITLE II—MEDICAID PROVISIONS

Subtitle A—Substantive Provisions

PART I—MANAGED CARE PROVISIONS

- Sec. 201. Medicaid managed care antifraud provisions.
- Sec. 202. Extension of medicaid waiver for Tennessee Primary Care Network.
- Sec. 203. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.
- Sec. 204. Waiver of application of medicaid enrollment mix requirement to Managed Health Services Insurance Corporation of Milwaukee, Wisconsin.
- Sec. 205. Extension of Minnesota prepaid medicaid demonstration project.

PART II—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

- Sec. 211. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
- Sec. 212. Relief from third party liability requirements when cost-effective.
- Sec. 213. State expenditures for medical assistance with respect to home and community-based services provided under a waiver.

PART III—OTHER PROVISIONS

- Sec. 221. Presumptive eligibility for pregnant women.
- Sec. 222. Criteria for determining the amount of disallowances.
- Sec. 223. Intermediate sanctions for kickback violations.
- Sec. 224. Technical amendment related to taxes on certain health care items and services.
- Sec. 225. Application of mammography certification requirements under the medicaid program.
- Sec. 226. Nursing home reform.
- Sec. 227. Increase in authorization of appropriations for the maternal and child health services block grant program.

Subtitle B—Miscellaneous and Technical Corrections Relating to OBRA-1990

- Sec. 241. Effective date.
- Sec. 242. Corrections relating to section 4401 (drug rebate program).
- Sec. 243. Corrections relating to section 4402 (enrollment under group health plans).
- Sec. 244. Corrections relating to section 4501 (low-income medicare beneficiaries).
- Sec. 245. Corrections relating to section 4601 (child health).
- Sec. 246. Corrections relating to section 4602 (outreach locations).
- Sec. 247. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
- Sec. 248. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
- Sec. 249. Corrections relating to section 4704 (Federally-qualified health centers).
- Sec. 250. Corrections relating to section 4708 (substitute physicians).
- Sec. 251. Corrections relating to section 4711 (home and community care for frail elderly).

- Sec. 252. Corrections relating to section 4712 (community supported living arrangements).
- Sec. 253. Correction relating to section 4713 (COBRA continuation coverage).
- Sec. 254. Correction relating to section 4716 (medicaid transition for family assistance).
- Sec. 255. Corrections relating to section 4718 (medically needy income levels for certain 1-member families).
- Sec. 256. Corrections relating to section 4723 (medicaid spend-down option).
- Sec. 257. Corrections relating to section 4724 (optional State disability determinations).
- Sec. 258. Correction relating to section 4732 (special rules for health maintenance organizations).
- Sec. 259. Corrections relating to section 4747 (coverage of HIV-positive individuals).
- Sec. 260. Correction relating to section 4751 (advanced directives).
- Sec. 261. Corrections relating to section 4752 (physicians' services).
- Sec. 262. Corrections relating to section 4801 (nursing home reform).
- Sec. 263. Other technical corrections.

Subtitle C—Miscellaneous and Technical Corrections Relating to OBRA-1993

- Sec. 271. Effective date.
- Sec. 272. Corrections relating to section 13601 (personal care services).
- Sec. 273. Corrections relating to section 13604 (emergency services for aliens).
- Sec. 274. Corrections relating to section 13611 (transfers of assets; treatment of certain trusts).
- Sec. 275. Corrections relating to section 13612 (medicaid estate recoveries).
- Sec. 276. Corrections relating to section 13622 (liability of third parties to pay for care and services).
- Sec. 277. Corrections relating to section 13623 (medical child support).
- Sec. 278. Corrections relating to section 13624 (physician referrals).
- Sec. 279. Corrections relating to section 13631 (medicaid pediatric immunization provisions).
- Sec. 280. Corrections relating to section 13643 (demonstration projects).

TITLE III—INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

Subtitle A—Child Welfare, Foster Care, Adoption

- Sec. 301. Required protections for foster children.
- Sec. 302. Conformity reviews.
- Sec. 303. States required to report on measures taken to comply with the Indian Child Welfare Act.
- Sec. 304. Child welfare traineeships.
- Sec. 305. Dispositional hearing.
- Sec. 306. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.
- Sec. 307. Demonstration projects.
- Sec. 308. Placement accountability.
- Sec. 309. Payments of State claims for foster care and adoption assistance.
- Sec. 310. Effect of failure to carry out State plan.

Subtitle B—Child Support Enforcement

- Sec. 311. Reports to credit bureaus on persons delinquent in child support payments.

- Sec. 312. Technical amendments to provision on State paternity establishment programs.
- Sec. 313. Agreement to assist in locating missing children under the parent locator service.

Subtitle C—Supplemental Security Income

- Sec. 321. Definition of disability for children under age 18 applied to all individuals under age 18.
- Sec. 322. Commission on Childhood Disability.
- Sec. 323. Exemption from pass-along requirements.

Subtitle D—Aid to Families With Dependent Children

- Sec. 331. Simplification of income and eligibility verification system.
- Sec. 332. Measurement and reporting of welfare receipt.
- Sec. 333. New Hope demonstration project.
- Sec. 334. Delay in requirement that outlying areas operate an AFDC-up program.
- Sec. 335. New York State child support demonstration program.
- Sec. 336. State option to use retrospective budgeting without monthly reporting.

Subtitle E—JOBS Program

- Sec. 341. Expansion of coverage for Indian tribes.
- Sec. 342. Report to the Congress with respect to performance standards in the JOBS program.

Subtitle F—Unemployment Insurance

- Sec. 351. Extension of reporting date for advisory council.
- Sec. 352. Technical amendment to unemployment trust fund.

Subtitle G—Other Provisions

- Sec. 361. Extension of demonstration to expand job opportunities.
- Sec. 362. Early childhood development projects.
- Sec. 363. Reallocation of funds under title XX for empowerment and enterprise grants.
- Sec. 364. Corrections related to the income security and human resources provisions of OBRA-1990.
- Sec. 365. Technical corrections related to the human resource and income security provisions of OBRA-1989.
- Sec. 366. Technical correction related to the human resource and income security provisions of OBRA-1993.
- Sec. 367. Elimination of obsolete provisions relating to treatment of the earned income tax credit.
- Sec. 368. Redesignation of certain provisions.

TITLE I—MEDICARE PROVISIONS
Subtitle A—Provisions Relating to
Part A

SEC. 101. PROVISIONS RELATING TO ADJUSTMENTS TO
STANDARDIZED AMOUNTS FOR WAGES AND
WAGE-RELATED COSTS.

(a) **USE OF OCCUPATIONAL MIX IN GUIDELINES FOR**
DETERMINATION OF AREA WAGE INDEX.—

(1) **IN GENERAL.**—Section 1886(d)(10)(D)(i)(I)
(42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by
inserting “(to the extent the Secretary determines
appropriate)” after “taking into account”.

(2) **EFFECTIVE DATE.**—The amendment made
by paragraph (1) shall take effect as if included in
the enactment of OBRA–1989.

(b) **CONFORMING AMENDMENTS RELATING TO GEO-**
GRAPHIC AREA USED TO DETERMINE WAGE INDEX AP-
PLICABLE TO HOSPITAL.—(1) Section 1886(d)(8)(C) (42
U.S.C. 1395ww(d)(8)(C)), as amended by section
13501(b)(1) of OBRA–1993, is amended—

(A) in clause (iv), by striking “paragraph (1)”
and inserting “paragraph (10)”; and

(B) by adding at the end the following new
clause:

1 “(v) This subparagraph shall apply with respect to
2 discharges occurring in a fiscal year only if the Secretary
3 uses a method for making adjustments to the DRG pro-
4 spective payment rate for area differences in hospital wage
5 levels under paragraph (3)(E) for the fiscal year that is
6 based on the use of Metropolitan Statistical Area classi-
7 fications.”.

8 (2) Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10))
9 is amended—

10 (A) in subparagraph (C)(i)(II), by striking “the
11 area wage index applicable” and inserting “the fac-
12 tor used to adjust the DRG prospective payment
13 rate for area differences in hospital wage levels that
14 applies”; and

15 (B) in subparagraph (D)—

16 (i) by redesignating clause (ii) as clause
17 (iii), and

18 (ii) by inserting after clause (i) the follow-
19 ing new clause:

20 “(ii) Notwithstanding clause (i), if the Secretary uses
21 a method for making adjustments to the DRG prospective
22 payment rate for area differences in hospital wage levels
23 under paragraph (3)(E) that is not based on the use of
24 Metropolitan Statistical Area classifications, the Secretary
25 may revise the guidelines published under clause (i) to the

1 extent such guidelines are used to determine the appro-
 2 priateness of the geographic area in which the hospital is
 3 determined to be located for purposes of making such ad-
 4 justments.”.

5 (c) ADJUSTMENT OF LABOR AND NON-LABOR POR-
 6 TIONS OF STANDARDIZED AMOUNTS.—Section
 7 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is
 8 amended by adding at the end the following: “For dis-
 9 charges occurring on or after October 1, 1994, the Sec-
 10 retary shall adjust the ratio of the labor portion to non-
 11 labor portion of each average standardized amount to
 12 equal such ratio for the national average of all standard-
 13 ized amounts.”.

14 **SEC. 102. ESSENTIAL ACCESS COMMUNITY HOSPITAL**
 15 **(EACH) AMENDMENTS.**

16 (a) INCREASING NUMBER OF PARTICIPATING
 17 STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1))
 18 is amended by striking “7” and inserting “9”.

19 (b) TREATMENT OF INPATIENT HOSPITAL SERVICES
 20 PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

21 (1) IN GENERAL.—Section 1820(f)(1)(F) (42
 22 U.S.C. 1395i-4(f)(1)(F)) is amended to read as fol-
 23 lows:

24 “(F) subject to paragraph (4), provides not
 25 more than 6 inpatient beds (meeting such con-

1 ditions as the Secretary may establish) for pro-
2 viding inpatient care to patients requiring sta-
3 bilization before discharge or transfer to a hos-
4 pital, except that the facility may not provide
5 any inpatient hospital services—

6 “(i) to any patient whose attending
7 physician does not certify that the patient
8 may reasonably be expected to be dis-
9 charged or transferred to a hospital within
10 72 hours of admission to the facility; or

11 “(ii) consisting of surgery or any
12 other service requiring the use of general
13 anesthesia (other than surgical procedures
14 specified by the Secretary under section
15 1833(i)(1)(A)), unless the attending physi-
16 cian certifies that the risk associated with
17 transferring the patient to a hospital for
18 such services outweighs the benefits of
19 transferring the patient to a hospital for
20 such services.”.

21 (2) LIMITATION ON AVERAGE LENGTH OF
22 STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is
23 amended by adding at the end the following new
24 paragraph:

1 “(4) LIMITATION ON AVERAGE LENGTH OF IN-
2 PATIENT STAYS.—The Secretary may terminate a
3 designation of a rural primary care hospital under
4 paragraph (1) if the Secretary finds that the average
5 length of stay for inpatients at the facility during
6 the previous year in which the designation was in ef-
7 fect exceeded 72 hours. In determining the compli-
8 ance of a facility with the requirement of the pre-
9 vious sentence, there shall not be taken into account
10 periods of stay of inpatients in excess of 72 hours
11 to the extent such periods exceed 72 hours because
12 transfer to a hospital is precluded because of inclem-
13 ent weather or other emergency conditions.”.

14 (3) CONFORMING AMENDMENT.—Section
15 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by
16 striking “such services” and all that follows and in-
17 serting “the individual may reasonably be expected
18 to be discharged or transferred to a hospital within
19 72 hours after admission to the rural primary care
20 hospital.”.

21 (4) GAO REPORTS.—Not later than 2 years
22 after the date of the enactment of this Act, the
23 Comptroller General shall submit reports to Con-
24 gress on—

1 (A) the application of the requirements
2 under section 1820(f) of the Social Security Act
3 (as amended by this subsection) that rural pri-
4 mary care hospitals provide inpatient care only
5 to those individuals whose attending physicians
6 certify may reasonably be expected to be dis-
7 charged within 72 hours after admission and
8 maintain an average length of inpatient stay
9 during a year that does not exceed 72 hours;
10 and

11 (B) the extent to which such requirements
12 have resulted in such hospitals providing inpa-
13 tient care beyond their capabilities or have lim-
14 ited the ability of such hospitals to provide
15 needed services.

16 (c) DESIGNATION OF HOSPITALS.—

17 (1) PERMITTING DESIGNATION OF HOSPITALS
18 LOCATED IN URBAN AREAS.—

19 (A) IN GENERAL.—Section 1820 (42
20 U.S.C. 1395i-4) is amended—

21 (i) by striking paragraph (1) of sub-
22 section (e) and redesignating paragraphs
23 (2) through (6) as paragraphs (1) through
24 (5);

1 (ii) in subsection (e)(1)(A) (as redes-
 2 ignated by subparagraph (A))—

3 (I) by striking “is located” and
 4 inserting “except in the case of a hos-
 5 pital located in an urban area, is lo-
 6 cated”,

7 (II) by striking “, (ii)” and in-
 8 serting “or (ii)”, and

9 (III) by striking “or (iii)” and all
 10 that follows through “section,”; and

11 (iii) in subsection (i)(1)(B), by strik-
 12 ing “paragraph (3)” and inserting “para-
 13 graph (2)”.

14 (B) NO CHANGE IN MEDICARE PROSPEC-
 15 TIVE PAYMENT.—Section 1886(d)(5)(D) (42
 16 U.S.C. 1395ww(d)(5)(D)) is amended—

17 (i) in clause (iii)(III), by inserting “lo-
 18 cated in a rural area and” after “that is”,
 19 and

20 (ii) in clause (v), by inserting “located
 21 in a rural area and” after “in the case of
 22 a hospital”.

23 (2) PERMITTING HOSPITALS LOCATED IN AD-
 24 JOINING STATES TO PARTICIPATE IN STATE PRO-
 25 GRAM.—

1 (A) IN GENERAL.—Section 1820 (42
2 U.S.C. 1395i-4) is amended—

3 (i) by redesignating subsection (k) as
4 subsection (l); and

5 (ii) by inserting after subsection (j)
6 the following new subsection:

7 “(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN
8 PARTICIPATING STATES.—Notwithstanding any other
9 provision of this section—

10 “(1) for purposes of including a hospital or fa-
11 cility as a member institution of a rural health net-
12 work, a State may designate a hospital or facility
13 that is not located in the State as an essential access
14 community hospital or a rural primary care hospital
15 if the hospital or facility is located in an adjoining
16 State and is otherwise eligible for designation as
17 such a hospital;

18 “(2) the Secretary may designate a hospital or
19 facility that is not located in a State receiving a
20 grant under subsection (a)(1) as an essential access
21 community hospital or a rural primary care hospital
22 if the hospital or facility is a member institution of
23 a rural health network of a State receiving a grant
24 under such subsection; and

1 “(3) a hospital or facility designated pursuant
2 to this subsection shall be eligible to receive a grant
3 under subsection (a)(2).”.

4 (B) CONFORMING AMENDMENTS.—(i) Sec-
5 tion 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is
6 amended by striking “paragraph (3)” and in-
7 serting “paragraph (3) or subsection (k)”.

8 (ii) Paragraphs (1)(A) and (2)(A) of sec-
9 tion 1820(i) (42 U.S.C. 1395i-4(i)) are each
10 amended—

11 (I) in clause (i), by striking “(a)(1)”
12 and inserting “(a)(1) (except as provided
13 in subsection (k))”, and

14 (II) in clause (ii), by striking “sub-
15 paragraph (B)” and inserting “subpara-
16 graph (B) or subsection (k)”.

17 (d) SKILLED NURSING SERVICES IN RURAL PRIMARY
18 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-
19 4(f)(3)) is amended by striking “because the facility” and
20 all that follows and inserting the following: “because, at
21 the time the facility applies to the State for designation
22 as a rural primary care hospital, there is in effect an
23 agreement between the facility and the Secretary under
24 section 1883 under which the facility’s inpatient hospital
25 facilities are used for the furnishing of extended care serv-

ices, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.”.

(e) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1814(l)(2) (42 U.S.C. 1395f(l)(2)) is amended by striking “January 1, 1993” and inserting “January 1, 1996”.

(f) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking “during a year before 1993” and inserting “during a year before the prospective payment system described in paragraph (2) is in effect”; and

(B) in paragraph (2), by striking “January 1, 1993,” and inserting “January 1, 1996,”.

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following new flush sentence:

“The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.”.

(g) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: “, except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a ‘physician’ is a reference to a physician as defined in section 1861(r)(1).”.

(h) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking “inpatient hospital services” the first place it appears and inserting “inpatient hos-

1 pital services or inpatient rural primary care hos-
2 pital services”;

3 (B) by striking “inpatient hospital services” the
4 second place it appears and inserting “such serv-
5 ices”; and

6 (C) by striking “and inpatient rural primary
7 care hospital services”.

8 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.
9 1395e(a), 1395e(b)(3)(A)) are each amended by striking
10 “inpatient hospital services” each place it appears and in-
11 sserting “inpatient hospital services or inpatient rural pri-
12 mary care hospital services”.

13 (3) Section 1813(b)(3)(B) (42 U.S.C.
14 1395e(b)(3)(B)) is amended by striking “inpatient hos-
15 pital services” and inserting “inpatient hospital services,
16 inpatient rural primary care hospital services”.

17 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is
18 amended—

19 (A) in paragraph (1), by striking “inpatient
20 hospital services” and inserting “inpatient hospital
21 services, inpatient rural primary care hospital serv-
22 ices”; and

23 (B) in paragraph (2), by striking “hospital”
24 and inserting “hospital or rural primary care hos-
25 pital”.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—Section
 2 1820(l) (42 U.S.C. 1395i–4(l)), as redesignated by sub-
 3 section (c)(2)(A), is amended by striking “1990, 1991,
 4 and 1992” and inserting “1990 through 1995”.

5 (j) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on the date of the enactment
 7 of this Act.

8 **SEC. 103. PROVISIONS RELATING TO RURAL HEALTH TRAN-**
 9 **SITION GRANT PROGRAM.**

10 (a) ELIGIBILITY OF RURAL PRIMARY CARE HOS-
 11 PITALS FOR GRANTS.—

12 (1) IN GENERAL.—Section 4005(e)(2) of
 13 OBRA–1987 is amended in the matter preceding
 14 subparagraph (A) by inserting “any rural primary
 15 care hospital designated by the Secretary under sec-
 16 tion 1820(i)(2) of the Social Security Act, or” after
 17 “means”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by paragraph (1) shall apply to grants made on or
 20 after October 1, 1993.

21 (b) EXTENSION OF AUTHORIZATION OF APPROPRIA-
 22 TIONS.—Section 4005(e)(9) of OBRA–1987 is amended—

23 (1) by striking “1989 and” and inserting
 24 “1989,”; and

1 (2) by striking "1992" and inserting "1992
2 and \$30,000,000 for each of fiscal years 1993
3 through 1997".

4 (c) FREQUENCY OF REQUIRED REPORTS.—Section
5 4008(e)(8)(B) of OBRA-1987 is amended by striking
6 “every 6 months” and inserting “every 12 months”.

7 SEC. 104. PSYCHOLOGY SERVICES IN HOSPITALS.

8 Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is
9 amended by striking "physician;" and inserting "physi-
10 cian, except that a patient receiving qualified psychologist
11 services (as defined in subsection (ii)) may be under the
12 care of a clinical psychologist with respect to such services
13 to the extent permitted under State law;".

14 SEC. 105. MEDICARE-DEPENDENT, SMALL RURAL HOS-
15 PITALS AND SOLE COMMUNITY HOSPITALS.

16 (a) MEDICARE DEPENDENT, SMALL RURAL HOS-
17 PITALS.—

(1) CLARIFICATION OF ADDITIONAL PAY-
MENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C.
1395ww(d)(5)(G)(ii)(I)), as amended by section
13501(e)(1) of OBRA-1993, is amended by striking
“the first 3 12-month cost reporting periods that
begin” and inserting “the 36-month period begin-
ning with the first day of the cost reporting period
that begins”.

(2) CONFORMING TARGET AMOUNTS TO EXTENSION OF ADDITIONAL PAYMENTS.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended in the matter preceding clause (i) by striking “March 31, 1993” and inserting “September 30, 1994”.

(b) CLARIFICATION OF UPDATES.—Section 1886(b)(3)(B)(iv)(II) (42 U.S.C. 1395ww(b)(3)(B)(iv)(II)), as added by section 13501(a)(2) of OBRA–1993, is amended by striking “(taking into account” and all that follows through “1994)” and inserting “(adjusted to exclude any portion of a cost reporting period beginning during fiscal year 1993 for which the applicable percentage increase is determined under subparagraph (I))”.

SEC. 106. SKILLED NURSING FACILITIES.

(a) CONSTRUCTION OF WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

1 (b) CLARIFICATION OF REPEAL OF UTILIZATION RE-
2 VIEW REQUIREMENTS.—

3 (1) IN GENERAL.—(A) Section 1814(a)(5) (42
4 U.S.C. 1395f(a)(5)) is amended—

5 (i) by striking “and with respect” and all
6 that follows through “regulations”;

7 (ii) by striking “or skilled nursing facility,
8 as the case may be”; and

9 (iii) by striking “or facility”.

10 (B) Section 1866(d) (42 U.S.C. 1395cc(d)) is
11 amended—

12 (i) by striking “or skilled nursing facility”;

13 (ii) by striking “or facility” each place it
14 appears;

15 (iii) by striking “or for post-hospital” and
16 all that follows through “the case may be”; and

17 (iv) by striking “, or (in the case of” and
18 all that follows through “transfer agreement,”.

19 (2) EFFECTIVE DATE.—The amendments made
20 by paragraph (1) shall take effect as if included in
21 the enactment of OBRA-1987.

22 (c) CONFORMING AMENDMENTS TO NURSING HOME
23 REFORM.—

(1) SUSPENSION OF DECERTIFICATION OF
NURSES AIDE TRAINING AND COMPETENCY EVALUA-
TION PROGRAMS BASED ON EXTENDED SURVEYS.—

(A) IN GENERAL.—Section
1819(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1395i-
3(f)(2)(B)(iii)(I)(b)) is amended by striking the
semicolon and inserting the following: “, unless
the survey shows that the facility is in compli-
ance with the requirements of subsections (b),
(c), and (d) of this section;”.

(B) EFFECTIVE DATE.—The amendment
made by subparagraph (A) shall take effect as
if included in the enactment of OBRA-1990.

(2) REQUIREMENTS FOR CONSULTANTS CON-
DUCTING REVIEWS ON USE OF DRUGS.—

(A) IN GENERAL.—Section 1819(c)(1)(D)
(42 U.S.C. 1395i-3(c)(1)(D)) is amended by
adding at the end the following sentence: “In
determining whether such a consultant is quali-
fied to conduct reviews under the preceding sen-
tence, the Secretary shall take into account the
needs of nursing facilities under this title to
have access to the services of such a consultant
on a timely basis.”.

1 (B) EFFECTIVE DATE.—The amendment
 2 made by subparagraph (A) shall take effect as
 3 if included in the enactment of OBRA-1987.

4 (3) INCREASE IN MINIMUM AMOUNT REQUIRED
 5 FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

6 (A) IN GENERAL.—Section
 7 1819(c)(6)(B)(i) (42 U.S.C. 1395i-
 8 3(c)(6)(B)(i)) is amended by striking “\$50”
 9 and inserting “\$100”.

10 (B) EFFECTIVE DATE.—The amendment
 11 made by subparagraph (A) shall take effect
 12 January 1, 1994.

13 (4) DUE PROCESS PROTECTIONS FOR NURSE
 14 AIDES.—

15 (A) PROHIBITING STATE FROM INCLUDING
 16 UNDOCUMENTED ALLEGATIONS IN NURSES
 17 AIDE REGISTRY.—Section 1819(e)(2)(B) (42
 18 U.S.C. 1395i-3(e)(2)(B)) is amended by strik-
 19 ing the period at the end of the first sentence
 20 and inserting the following: “, but shall not in-
 21 clude any allegations of resident abuse or ne-
 22 glect or misappropriation of resident property
 23 that are not specifically documented by the
 24 State under such subsection.”.

(B) DUE PROCESS REQUIREMENTS FOR
REBUTTING ALLEGATIONS.—Section
1819(g)(1)(C) (42 U.S.C. 1395i–3(g)(1)(C)) is
amended by striking the second sentence and
inserting the following: “The State shall, after
providing the individual involved with a written
notice of the allegations (including a statement
of the availability of a hearing for the individual
to rebut the allegations) and the opportunity
for a hearing on the record, make a written
finding as to the accuracy of the allegations.”.

(C) EFFECTIVE DATE.—The amendments
made by this paragraph shall take effect Janu-
ary 1, 1994.

(d) CORRECTIONS RELATING TO SECTION 4008.—

(1) Section 1819(b)(5)(D) (42 U.S.C. 1395i–
3(b)(5)(D)), as amended by section 4008(h)(1)(D)
of OBRA–1990, is amended by striking the comma
before “or a new competency evaluation program.”.

(2) Section 1819(b)(5)(G) (42 U.S.C. 1395i–
3(b)(5)(G)) is amended by striking “or licensed or
certified social worker” and inserting “licensed or
certified social worker, registered respiratory thera-
pist, or certified respiratory therapy technician”.

1 (3) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i–
2 3(f)(2)(B)(i)) is amended by striking “facilities,”
3 and inserting “facilities (subject to clause (iii)),”.

4 (4) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C.
5 1395i–3(f)(2)(B)(iii)(I)(c)) is amended by striking
6 “clauses” each place it appears and inserting
7 “clause”.

8 (5) Section 1819(g)(5)(B) (42 U.S.C. 1395i–
9 3(g)(5)(B)) is amended by striking “paragraphs”
10 and inserting “paragraph”.

11 (6) Section 4008(h)(1)(F)(ii) of OBRA–1990 is
12 amended—

13 (A) by striking “The amendments” and in-
14 serting “(I) The amendments”;

15 (B) by striking “nursing facility” each
16 place it appears and inserting “skilled nursing
17 facility”;

18 (C) by redesignating subclauses (I)
19 through (V) as items (aa) through (ee); and

20 (D) by adding at the end the following new
21 subclause:

22 “(II) Notwithstanding subclause (I)
23 and subject to section 1819(f)(2)(B)(iii)(I)
24 of the Social Security Act (as amended by
25 clause (i)), a State may approve a training

and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, item (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.”.

(7) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 107. NOTIFICATION OF AVAILABILITY OF HOSPICE BENEFIT.

(a) **IN GENERAL.**—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting “, including hospice services,” after “post-hospital services”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 108. CLARIFYING EXPERTISE OF INDIVIDUALS TO SERVE ON THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Section 1886(e)(6)(B) (42 U.S.C. 1395ww(e)(6)(B)) is amended by striking “hospital reimbursement, hospital financial management” and inserting “health facility man-

1 agement, reimbursement of health facilities or other pro-
 2 viders of services which reflect the scope of the Commis-
 3 sion's responsibilities".

4 **SEC. 109. AUTHORITY FOR BUDGET NEUTRAL ADJUST-**
 5 **MENTS FOR CHANGES IN PAYMENT AMOUNTS**
 6 **FOR TRANSFER CASES.**

7 Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)) is
 8 amended—

- 9 (1) by inserting "(i)" after "(I)"; and
 10 (2) by adding at the end the following new
 11 clause:

12 "(ii) In making adjustments under clause (i) for
 13 transfer cases (as defined by the Secretary) in a fiscal
 14 year, the Secretary may make adjustments to each of the
 15 average standardized amounts determined under para-
 16 graph (3) to assure that the aggregate payments made
 17 under this subsection for such fiscal year are not greater
 18 or lesser than those that would have otherwise been made
 19 in such fiscal year."

20 **SEC. 110. CLARIFICATION OF DRG PAYMENT WINDOW EX-**
 21 **PANSION; MISCELLANEOUS AND TECHNICAL**
 22 **CORRECTIONS.**

23 (a) CLARIFICATION OF DRG PAYMENT WINDOW EX-
 24 PANSION.—The first sentence of section 1886(a)(4) (42
 25 U.S.C. 1395ww(a)(4)) is amended by inserting "(or, in the

1 case of a hospital that is not a subsection (d) hospital,
 2 during the 1 day)” after “3 days”.

3 (b) TECHNICAL CORRECTION RELATING TO RESI-
 4 DENT ASSESSMENT IN NURSING HOMES.—Section
 5 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)) is
 6 amended by striking “not later than” before “14 days”.

7 (c) TECHNICAL CORRECTION RELATING TO APPLICA-
 8 BLE ADJUSTMENT FACTOR FOR INDIRECT MEDICAL
 9 EDUCATION ADJUSTMENT.—Section 1886(d)(5)(B)(ii)
 10 (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking
 11 “May 1, 1986,” and inserting “October 1, 1988,”.

12 (d) CLERICAL CORRECTIONS.—(1) Section
 13 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended
 14 by striking “1990” and inserting “1990,”.

15 (2) Section 1816(f)(2)(A)(ii) (42 U.S.C.
 16 1396h(f)(2)(A)(ii)) is amended by striking “such agency”
 17 and inserting “such agency’s”.

18 **Subtitle B—Provisions Relating to** 19 **Part B**

20 **PART I—PHYSICIANS’ SERVICES**

21 **SEC. 121. DEVELOPMENT AND IMPLEMENTATION OF RE-** 22 **SOURCE-BASED METHODOLOGY FOR PRAC-** 23 **TICE EXPENSES.**

24 (a) DEVELOPMENT.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services shall develop a methodology for im-
3 plementing in 1997 a resource-based system for de-
4 termining practice expense relative value units for
5 each physicians' service. The methodology utilized
6 shall recognize the staff, equipment, and supplies
7 used in the provision of various medical and surgical
8 services in various settings.

9 (2) REPORT.—The Secretary shall transmit a
10 report by June 30, 1995, on the methodology devel-
11 oped under paragraph (1) to the Committees on
12 Ways and Means and Energy and Commerce of the
13 House of Representatives and the Committee on Fi-
14 nance of the Senate. The report shall include a pres-
15 entation of data utilized in developing the methodol-
16 ogy and an explanation of the methodology.

17 (b) IMPLEMENTATION.—

18 (1) IN GENERAL.—Section 1848(c)(2)(C)(ii)
19 (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is amended—

20 (A) by inserting “for the service for years
21 before 1997” before “equal to”,

22 (B) by striking the period at the end of
23 subclause (II) and inserting a comma, and

24 (C) by adding after and below subclause
25 (II) the following:

“and for years beginning with 1997 based on the relative practice expense resources involved in furnishing the service.”.

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w–4(c)(3)(C)(ii)) is amended by striking “The practice” and inserting “For years before 1997, the practice”.

(3) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner as they apply to adjustments under clause (ii)(I) of such section.

SEC. 122. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking “shall review” and inserting “shall, in consultation with appropriate representatives of physicians, review”.

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

1 “(D) USE OF RECENT DATA.—In estab-
2 lishing indices and index values under this
3 paragraph, the Secretary shall use the most re-
4 cent data available relating to practice ex-
5 penses, malpractice expenses, and physician
6 work effort in different fee schedule areas.”.

7 (c) DEADLINE FOR INITIAL REVIEW AND REVI-
8 SION.—The Secretary of Health and Human Services
9 shall first review and revise geographic adjustment factors
10 under section 1848(e)(1)(C) of the Social Security Act by
11 not later than January 1, 1995. Not later than April 1,
12 1994, the Secretary shall study and report to the Commit-
13 tee on Finance of the Senate and the Committee on Ways
14 and Means and the Committee on Energy and Commerce
15 of the House of Representatives on the construction of the
16 geographic cost of practice index under section
17 1848(e)(1)(A)(i) of such Act.

18 (d) REPORT ON REVIEW PROCESS.—Not later than
19 1 year after the date of the enactment of this Act, the
20 Secretary of Health and Human Services shall study and
21 report to the Committee on Finance of the Senate and
22 the Committee on Ways and Means and the Committee
23 on Energy and Commerce of the House of Representatives
24 on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 123. EXTRA-BILLING LIMITS.

(a) **ENFORCEMENT OF LIMITS.**—Section 1848(g) (42 U.S.C. 1395w-4(g)), as amended by section 13517(a) of OBRA-1993, is amended—

1 (1) by amending paragraph (1) to read as fol-
2 lows:

3 “(1) LIMITATION ON ACTUAL CHARGES.—

4 “(A) IN GENERAL.—In the case of a
5 nonparticipating physician or nonparticipating
6 supplier or other person (as defined in section
7 1842(i)(2)) who does not accept payment on an
8 assignment-related basis for a physician’s serv-
9 ice furnished with respect to an individual en-
10 rolled under this part, the following rules apply:

11 “(i) APPLICATION OF LIMITING
12 CHARGE.—No person may bill or collect an
13 actual charge for the service in excess of
14 the limiting charge described in paragraph
15 (2) for such service.

16 “(ii) NO LIABILITY FOR EXCESS
17 CHARGES.—No person is liable for pay-
18 ment of any amounts billed for the service
19 in excess of such limiting charge.

20 “(iii) CORRECTION OF EXCESS
21 CHARGES.—If such a physician, supplier,
22 or other person bills, but does not collect,
23 an actual charge for a service in violation
24 of clause (i), the physician, supplier, or
25 other person shall reduce on a timely basis

1 the actual charge billed for the service to
2 an amount not to exceed the limiting
3 charge for the service.

4 “(iv) REFUND OF EXCESS COLLEC-
5 TIONS.—If such a physician, supplier, or
6 other person collects an actual charge for
7 a service in violation of clause (i), the phy-
8 sician, supplier, or other person shall pro-
9 vide on a timely basis a refund to the indi-
10 vidual charged in the amount by which the
11 amount collected exceeded the limiting
12 charge for the service. The amount of such
13 a refund shall be reduced to the extent the
14 individual has an outstanding balance owed
15 by the individual to the physician.

16 “(B) SANCTIONS.—If a physician, supplier,
17 or other person—

18 “(i) knowingly and willfully bills or
19 collects for services in violation of subpara-
20 graph (A)(i) on a repeated basis, or

21 “(ii) fails to comply with clause (iii)
22 or (iv) of subparagraph (A) on a timely
23 basis,

24 the Secretary may apply sanctions against the
25 physician, supplier, or other person in accord-

1 ance with paragraph (2) of section 1842(j). In
2 applying this subparagraph, paragraph (4) of
3 such section applies in the same manner as
4 such paragraph applies to such section and any
5 reference in such section to a physician is
6 deemed also to include a reference to a supplier
7 or other person under this subparagraph.

8 “(C) TIMELY BASIS.—For purposes of this
9 paragraph, a correction of a bill for an excess
10 charge or refund of an amount with respect to
11 a violation of subparagraph (A)(i) in the case of
12 a service is considered to be provided ‘on a
13 timely basis’, if the reduction or refund is made
14 not later than 30 days after the date the physi-
15 cian, supplier, or other person is notified by the
16 carrier under this part of such violation and of
17 the requirements of subparagraph (A).”; and
18 (2) in paragraph (3)(B)—

19 (A) by inserting after the first sentence the
20 following: “No person is liable for payment of
21 any amounts billed for such a service in viola-
22 tion of the previous sentence.”, and

23 (B) in the last sentence, by striking “pre-
24 vious sentence” and inserting “first sentence”.

1 (b) CLARIFICATION OF MANDATORY ASSIGNMENT
2 RULES FOR CERTAIN PRACTITIONERS.—

3 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.
4 1395u(b)), as amended by section 126(e), is amend-
5 ed by adding at the end the following new para-
6 graph:

7 “(18)(A) Payment for any service furnished by a
8 practitioner described in subparagraph (C) and for which
9 payment may be made under this part on a reasonable
10 charge or fee schedule basis may only be made under this
11 part on an assignment-related basis.

12 “(B) A practitioner described in subparagraph (C) or
13 other person may not bill (or collect any amount from)
14 the individual or another person for any service described
15 in subparagraph (A), except for deductible and coinsur-
16 ance amounts applicable under this part. No person is lia-
17 ble for payment of any amounts billed for such a service
18 in violation of the previous sentence. If a practitioner or
19 other person knowingly and willfully bills (or collects an
20 amount) for such a service in violation of such sentence,
21 the Secretary may apply sanctions against the practitioner
22 or other person in the same manner as the Secretary may
23 apply sanctions against a physician in accordance with
24 subsection (j)(2) in the same manner as such section ap-
25 plies with respect to a physician. Paragraph (4) of sub-

1 section (j) shall apply in this subparagraph in the same
2 manner as such paragraph applies to such section.

3 “(C) A practitioner described in this subparagraph
4 is any of the following:

5 “(i) A physician assistant, nurse practitioner, or
6 clinical nurse specialist (as defined in section
7 1861(aa)(5)).

8 “(ii) A certified registered nurse anesthetist (as
9 defined in section 1861(bb)(2)).

10 “(iii) A certified nurse-midwife (as defined in
11 section 1861(gg)(2)).

12 “(iv) A clinical social worker (as defined in sec-
13 tion 1861(hh)(1)).

14 “(v) A clinical psychologist (as defined by the
15 Secretary for purposes of section 1861(ii)).

16 “(D) For purposes of this paragraph, a service fur-
17 nished by a practitioner described in subparagraph (C) in-
18 cludes any services and supplies furnished as incident to
19 the service as would otherwise be covered under this part
20 if furnished by a physician or as incident to a physician’s
21 service.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 1833 (42 U.S.C. 1395l) is
24 amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) in subparagraph (C), by striking “shall include”,

(C) in subparagraph (C), by striking the period at the end and inserting “, and”, and

(D) by adding at the end the following new subparagraph:

“(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applica-

1 ble limiting charge (including information concern-
2 ing the right to a refund under section
3 1848(g)(1)(A)(iv)).”.

4 (2) DETERMINATIONS BY CARRIERS.—Subpara-
5 graph (G) of section 1842(b)(3) (42 U.S.C.
6 1395u(b)(3)) is amended to read as follows:

7 “(G) will, for a service that is furnished with
8 respect to an individual enrolled under this part,
9 that is not paid on an assignment-related basis, and
10 that is subject to a limiting charge under section
11 1848(g)—

12 “(i) determine, prior to making payment,
13 whether the amount billed for such service ex-
14 ceeds the limiting charge applicable under sec-
15 tion 1848(g)(2);

16 “(ii) notify the physician, supplier, or other
17 person periodically (but not less often than once
18 every 30 days) of determinations that amounts
19 billed exceeded such applicable limiting charges;
20 and

21 “(iii) provide for prompt response to in-
22 quires of physicians, suppliers, and other per-
23 sons concerning the accuracy of such limiting
24 charges for their services;”.

1 (d) REPORT ON CHARGES IN EXCESS OF LIMITING
2 CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-
3 4(g)(6)(B)) is amended by inserting “information on the
4 extent to which actual charges exceed limiting charges, the
5 number and types of services involved, and the average
6 amount of excess charges and information” after “report
7 to the Congress”.

8 (e) MISCELLANEOUS AND TECHNICAL AMEND-
9 MENTS.—Section 1833(h)(5)(D) (42 U.S.C.
10 1395l(h)(5)(D)) is amended—

11 (1) by striking “paragraphs (2) and (3)” and
12 by inserting “paragraph (2)”; and

13 (2) by adding at the end the following: “Para-
14 graph (4) of such section shall apply in this sub-
15 paragraph in the same manner as such paragraph
16 applies to such section.”.

17 (f) EFFECTIVE DATES.—

18 (1) ENFORCEMENT; MISCELLANEOUS AND
19 TECHNICAL AMENDMENTS.—The amendments made
20 by subsections (a) and (e) shall apply to services fur-
21 nished on or after the date of the enactment of this
22 Act; except that the amendments made by sub-
23 section (a) shall not apply to services of a
24 nonparticipating supplier or other person furnished
25 before January 1, 1994.

1 (2) PRACTITIONERS.—The amendments made
2 by subsection (b) shall apply to services furnished on
3 or after January 1, 1994.

4 (3) EOMBS.—The amendments made by sub-
5 section (c)(1) shall apply to explanations of benefits
6 provided on or after July 1, 1994.

7 (4) CARRIER DETERMINATIONS.—The amend-
8 ments made by subsection (c)(2) shall apply to con-
9 tracts as of January 1, 1994.

10 (5) REPORT.—The amendment made by sub-
11 section (d) shall apply to reports for years beginning
12 with 1994.

13 **SEC. 124. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

14 (a) IN GENERAL.—The Secretary of Health and
15 Human Services shall fully develop, by not later than Oc-
16 tober 1, 1994, relative values for the full range of pediatric
17 physicians' services which are consistent with the relative
18 values developed for other physicians' services under sec-
19 tion 1848(c) of the Social Security Act. In developing such
20 values, the Secretary shall conduct such refinements as
21 may be necessary to produce appropriate estimates for
22 such relative values.

23 (b) STUDY.—

24 (1) IN GENERAL.—The Secretary shall conduct
25 a study of the relative values for pediatric and other

1 services to determine whether there are significant
2 variations in the resources used in providing similar
3 services to different populations. In conducting such
4 study, the Secretary shall consult with appropriate
5 organizations representing pediatricians and other
6 physicians and physical and occupational therapists.

7 (2) REPORT.—Not later than July 1, 1995, the
8 Secretary shall submit to Congress a report on the
9 study conducted under paragraph (1). Such report
10 shall include any appropriate recommendations re-
11 garding needed changes in coding or other payment
12 policies to ensure that payments for pediatric serv-
13 ices appropriately reflect the resources required to
14 provide these services.

15 **SEC. 125. ADMINISTRATION OF CLAIMS RELATING TO PHY-**
16 **SICIANS' SERVICES.**

17 (a) LIMITATION ON CARRIER USER FEES.—Section
18 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at
19 the end the following new paragraph:

20 “(4) Neither a carrier nor the Secretary may impose
21 a fee under this title—

22 “(A) for the filing of claims related to physi-
23 cians' services,

1 “(B) for an error in filing a claim relating to
2 physicians’ services or for such a claim which is de-
3 nied,

4 “(C) for any appeal under this title with respect
5 to physicians’ services,

6 “(D) for applying for (or obtaining) a unique
7 identifier under subsection (r), or

8 “(E) for responding to inquiries respecting phy-
9 sicians’ services or for providing information with re-
10 spect to medical review of such services.”.

11 (b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE
12 BILLING ARRANGEMENTS.—

13 (1) IN GENERAL.—Clause (D) of section
14 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to
15 read as follows: “(D) payment may be made to a
16 physician for physicians’ services (and services fur-
17 nished incident to such services) furnished by a sec-
18 ond physician to patients of the first physician if (i)
19 the first physician is unavailable to provide the serv-
20 ices; (ii) the services are furnished pursuant to an
21 arrangement between the two physicians that (I) is
22 informal and reciprocal, or (II) involves per diem or
23 other fee-for-time compensation for such services;
24 (iii) the services are not provided by the second phy-
25 sician over a continuous period of more than 60

1 days; and (iv) the claim form submitted to the car-
 2 rier for such services includes the second physician's
 3 unique identifier (provided under the system estab-
 4 lished under subsection (r)) and indicates that the
 5 claim meets the requirements of this subparagraph
 6 for payment to the first physician".

7 (2) EFFECTIVE DATE.—The amendment made
 8 by paragraph (1) shall apply to services furnished on
 9 or after the first day of the first month beginning
 10 more than 60 days after the date of the enactment
 11 of this Act.

12 **SEC. 126. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

13 (a) OVERVALUED PROCEDURES.—(1) Section
 14 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is
 15 amended—

16 (A) by striking “, simple and subcutaneous”,

17 (B) by striking “; small” and inserting “and
 18 small”,

19 (C) by striking “treatments;” the first place it
 20 appears and inserting “and”,

21 (D) by striking “lobectomy;”,

22 (E) by striking “enterectomy; colectomy; chole-
 23 cystectomy;”,

24 (F) by striking “; transurethral resection”
 25 and inserting “and resection”, and

1 (G) by striking “sacral laminectomy;”.

2 (2) Section 4101(b)(2) of OBRA-1990 is amended—

3 (A) in the matter before subparagraph (A), by
4 striking “1842(b)(16)” and inserting
5 “1842(b)(16)(B)”, and

6 (B) in subparagraph (B)—

7 (i) by striking “, simple and subcutane-
8 ous”,

9 (ii) by striking “(HCPCS codes 19160 and
10 19162)” and inserting “(HCPCS code 19160)”,
11 and

12 (iii) by striking all that follows “(HCPCS
13 codes 92250” and inserting “and 92260).”.

14 (b) RADIOLOGY SERVICES.—(1) Section 1834(b)(4)
15 (42 U.S.C. 1395m(b)(4)) is amended by redesignating the
16 subparagraphs (E) and (F) redesignated by section
17 4102(a)(1) of OBRA-1990 as subparagraphs (F) and
18 (G), respectively.

19 (2) Section 1834(b)(4)(D) (42 U.S.C.
20 1395m(b)(4)(D)) is amended—

21 (A) in the matter before clause (i), by striking
22 “shall be determined as follows:” and inserting
23 “shall, subject to clause (vii), be reduced to the ad-
24 justed conversion factor for the locality determined
25 as follows:”,

(B) in clause (iv), by striking “LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to” and inserting “ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for”,

(C) in clause (vii), by striking “under this subparagraph”, and

(D) in clause (vii), by inserting “reduced under this subparagraph by” after “shall not be”.

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking “radiology services” and all that follows and inserting “nuclear medicine services.”.

(4) Section 4102(d) of OBRA-1990 is amended by striking “new paragraph” and inserting “new subparagraph”.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting “RULE FOR CERTAIN SCANNING SERVICES.—” after “(E)”.

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-4(a)(2)(D)(iii)) is amended by striking “that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989” and by striking “provided under such section” and inserting “provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989”.

(c) ANESTHESIA SERVICES.—(1) Section 4103(a) of OBRA-1990 is amended by striking “REDUCTION IN FEE

1 SCHEDULE” and inserting “REDUCTION IN PREVAILING
2 CHARGES”.

3 (2) Section 1842(q)(1)(B) (42 U.S.C.
4 1395u(q)(1)(B)) is amended—

5 (A) in the matter before clause (i), by striking
6 “shall be determined as follows:” and inserting
7 “shall, subject to clause (iv), be reduced to the ad-
8 justed prevailing charge conversion factor for the lo-
9 cality determined as follows:”, and

10 (B) in clause (iii), by striking “Subject to
11 clause (iv), the prevailing charge conversion factor to
12 be applied in” and inserting “The adjusted prevail-
13 ing charge conversion factor for”.

14 (d) ASSISTANTS AT SURGERY.—(1) Section 4107(c)
15 of OBRA–1990 is amended by inserting “(a)(1)” after
16 “subsection”.

17 (2) Section 4107(a)(2) of OBRA–1990 is amended
18 by adding at the end the following: “In applying section
19 1848(g)(2)(D) of the Social Security Act for services of
20 an assistant-at-surgery furnished during 1991, the recog-
21 nized payment amount shall not exceed the maximum
22 amount specified under section 1848(i)(2)(A) of such Act
23 (as applied under this paragraph in such year).”.

24 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-
25 ICES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended

1 by redesignating paragraph (18), as added by section
2 4108(a) of OBRA-1990, as paragraph (17) and, in such
3 paragraph, by inserting “, tests specified in paragraph
4 (14)(C)(i),” after “diagnostic laboratory tests”.

5 (f) STATEWIDE FEE SCHEDULES.—Section 4117 of
6 OBRA-1990 is amended—

7 (1) in subsection (a)—

8 (A) by striking “(a) IN GENERAL.—”, and

9 (B) by striking “, if the” and all that fol-
10 lows through “1991,”; and

11 (2) by striking subsections (b), (c), and (d).

12 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF
13 SIMILAR PHYSICIAN SERVICES.—Section 4113 of OBRA-
14 1990 is amended—

15 (1) by inserting “of the Social Security Act”
16 after “1869(b)(2)”;

17 (2) by striking “December 31, 1992” and in-
18 serting “December 31, 1993”.

19 (h) OTHER MISCELLANEOUS AND TECHNICAL
20 AMENDMENTS.—(1) The heading of section 1834(f) (42
21 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

22 (2)(A) Section 4105(b) of OBRA-1990 is amended—

23 (i) in paragraph (2), by striking “amendments”
24 and inserting “amendment”, and

1 (ii) in paragraph (3), by striking “amendments
2 made by paragraphs (1) and (2)” and inserting
3 “amendment made by paragraph (1)”.

4 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-
5 4(f)(2)(C)) is amended by inserting “PERFORMANCE
6 STANDARD RATES OF INCREASE FOR FISCAL YEAR
7 1991.—” after “(C)”.

8 (C) Section 4105(d) of OBRA-1990 is amended by
9 inserting “PUBLICATION OF PERFORMANCE STANDARD
10 RATES.—” after “(d)”.

11 (3) Section 4106(c) of OBRA-1990 is amended by
12 inserting “of the Social Security Act” after
13 “1848(d)(1)(B)”.

14 (4) Section 4114 of OBRA-1990 is amended by
15 striking “patients” the second place it appears.

16 (5) Section 1848(e)(1)(C) (42 U.S.C. 1395w-
17 4(e)(1)(C)) is amended by inserting “date of the” after
18 “since the”.

19 (6) Section 4118(f)(1)(D) of OBRA-1990 is amend-
20 ed by striking “is amended”.

21 (7) Section 4118(f)(1)(N)(ii) of OBRA-1990 is
22 amended by striking “subsection (f)(5)(A)” and inserting
23 “subsection (f)(5)(A))”.

24 (8) Section 1845(e) (42 U.S.C. 1395w-1(e)) is
25 amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(9) Section 4118(j)(2) of OBRA-1990 is amended by striking “In section” and inserting “Section”.

(10)(A) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking “apply to” and inserting “would otherwise apply to”, and

(ii) by inserting before the period at the end “but for the application of section 1848(i)(3)”.

(i) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA-1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking “(A) Any contract” and inserting “Any contract”; and

(B) by striking subparagraph (B).

1 (j) EFFECTIVE DATE.—Except as provided in sub-
2 section (i), the amendments made by this section and the
3 provisions of this section shall take effect as if included
4 in the enactment of OBRA-1990.

5 **PART II—DURABLE MEDICAL EQUIPMENT**

6 **SEC. 131. CERTIFICATION OF SUPPLIERS.**

7 (a) REQUIREMENTS.—

8 (1) IN GENERAL.—Section 1834 (42 U.S.C.
9 1395m), as amended by section 13544(b)(1) of
10 OBRA-1993, is amended by adding at the end the
11 following new subsection:

12 “(j) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
13 EQUIPMENT AND SUPPLIES.—

14 “(1) ISSUANCE AND RENEWAL OF SUPPLIER
15 NUMBER.—

16 “(A) PAYMENT.—Except as provided in
17 subparagraph (C), no payment may be made
18 under this part after May 1, 1994, for items
19 furnished by a supplier of medical equipment
20 and supplies unless such supplier obtains (and
21 renews at such intervals as the Secretary may
22 require) a supplier number.

23 “(B) STANDARDS FOR POSSESSING A SUP-
24 PLIER NUMBER.—A supplier may not obtain a
25 supplier number unless—

1 “(i) for medical equipment and sup-
2 plies furnished on or after May 1, 1994,
3 and before January 1, 1996, the supplier
4 meets standards prescribed by the Sec-
5 retary in regulations issued on June 18,
6 1992; and

7 “(ii) for medical equipment and sup-
8 plies furnished on or after January 1,
9 1996, the supplier meets revised standards
10 prescribed by the Secretary (in consulta-
11 tion with representatives of suppliers of
12 medical equipment and supplies, carriers,
13 and consumers) that shall include require-
14 ments that the supplier—

15 “(I) comply with all applicable
16 State and Federal licensure and regu-
17 latory requirements;

18 “(II) maintain a physical facility
19 on an appropriate site;

20 “(III) have proof of appropriate
21 liability insurance; and

22 “(IV) meet such other require-
23 ments as the Secretary may specify.

24 “(C) EXCEPTION FOR ITEMS FURNISHED
25 AS INCIDENT TO A PHYSICIAN’S SERVICE.—

1 Subparagraph (A) shall not apply with respect
2 to medical equipment and supplies furnished in-
3 cident to a physician's service.

4 “(D) PROHIBITION AGAINST MULTIPLE
5 SUPPLIER NUMBERS.—The Secretary may not
6 issue more than one supplier number to any
7 supplier of medical equipment and supplies un-
8 less the issuance of more than one number is
9 appropriate to identify subsidiary or regional
10 entities under the supplier's ownership or con-
11 trol.

12 “(E) PROHIBITION AGAINST DELEGATION
13 OF SUPPLIER DETERMINATIONS.—The Sec-
14 retary may not delegate (other than by contract
15 under section 1842) the responsibility to deter-
16 mine whether suppliers meet the standards nec-
17 essary to obtain a supplier number.

18 “(2) CERTIFICATES OF MEDICAL NECESSITY.—

19 “(A) STANDARDIZED CERTIFICATES.—Not
20 later than October 1, 1994, the Secretary shall,
21 in consultation with carriers under this part,
22 develop one or more standardized certificates of
23 medical necessity (as defined in subparagraph
24 (C)) for medical equipment and supplies for

1 which the Secretary determines that such a cer-
2 tificate is necessary.

3 “(B) LIMITATION ON INFORMATION PRO-
4 VIDED BY SUPPLIERS ON CERTIFICATES OF
5 MEDICAL NECESSITY.—

6 “(i) IN GENERAL.—Effective May 1,
7 1994, a supplier of medical equipment and
8 supplies may distribute to physicians, or to
9 individuals entitled to benefits under this
10 part, a certificate of medical necessity for
11 commercial purposes which contains no
12 more than the following information com-
13 pleted by the supplier:

14 “(I) An identification of the sup-
15 plier and the beneficiary to whom
16 such medical equipment and supplies
17 are furnished.

18 “(II) A description of such medi-
19 cal equipment and supplies.

20 “(III) Any product code identify-
21 ing such medical equipment and sup-
22 plies.

23 “(IV) Any other administrative
24 information (other than information

1 relating to the beneficiary's medical
2 condition) identified by the Secretary.

3 “(ii) INFORMATION ON PAYMENT
4 AMOUNT AND CHARGES.—If a supplier dis-
5 tributes a certificate of medical necessity
6 containing any of the information per-
7 mitted to be supplied under clause (i), the
8 supplier shall also list on the certificate of
9 medical necessity the fee schedule amount
10 and the supplier's charge for the medical
11 equipment or supplies being furnished
12 prior to distribution of such certificate to
13 the physician.

14 “(iii) PENALTY.—Any supplier of
15 medical equipment and supplies who know-
16 ingly and willfully distributes a certificate
17 of medical necessity in violation of clause
18 (i) or fails to provide the information re-
19 quired under clause (ii) is subject to a civil
20 money penalty in an amount not to exceed
21 \$1,000 for each such certificate of medical
22 necessity so distributed. The provisions of
23 section 1128A (other than subsections (a)
24 and (b)) shall apply to civil money pen-
25 alties under this subparagraph in the same

1 manner as they apply to a penalty or pro-
2 ceeding under section 1128A(a).

3 “(C) DEFINITION.—For purposes of this
4 paragraph, the term ‘certificate of medical ne-
5 cessity’ means a form or other document con-
6 taining information required by the carrier to
7 be submitted to show that an item is reasonable
8 and necessary for the diagnosis or treatment of
9 illness or injury or to improve the functioning
10 of a malformed body member.

11 “(3) COVERAGE AND REVIEW CRITERIA.—

12 “(A) DEVELOPMENT AND ESTABLISH-
13 MENT.—Not later than January 1, 1996, the
14 Secretary, in consultation with representatives
15 of suppliers of medical equipment and supplies,
16 individuals enrolled under this part, and appro-
17 priate medical specialty societies, shall develop
18 and establish coverage and utilization review
19 criteria for 100 items of medical equipment and
20 supplies selected in accordance with the stand-
21 ards described in subparagraph (B). The Sec-
22 retary shall publish the criteria as part of the
23 instructions available to suppliers under this
24 part and no further publication, including publi-

1 cation in the Federal Register, shall be re-
2 quired.

3 “(B) STANDARDS FOR SELECTING ITEMS
4 SUBJECT TO CRITERIA.—The Secretary may se-
5 lect an item for coverage under the criteria de-
6 veloped and established under subparagraph
7 (A) if the Secretary finds that—

8 “(i) the item is frequently purchased
9 or rented by beneficiaries;

10 “(ii) the item is frequently subject to
11 a determination that such item is not
12 medically necessary; or

13 “(iii) a wide variation in the coverage
14 or utilization criteria applied to the item
15 exists among carriers (as of the date of the
16 enactment of this subsection).

17 “(C) ANNUAL REVIEW AND EXPANSION OF
18 ITEMS SUBJECT TO CRITERIA.—The Secretary
19 shall annually review the coverage and utiliza-
20 tion of items of medical equipment and supplies
21 to determine whether items not included among
22 the items selected under subparagraph (A)
23 should be made subject to coverage and utiliza-
24 tion review criteria, and, if appropriate, shall

1 develop and apply such criteria to such addi-
2 tional items.

3 “(4) DEFINITION.—The term ‘medical equip-
4 ment and supplies’ means—

5 “(A) durable medical equipment (as de-
6 fined in section 1861(n));

7 “(B) prosthetic devices (as described in
8 section 1861(s)(8));

9 “(C) orthotics and prosthetics (as de-
10 scribed in section 1861(s)(9));

11 “(D) surgical dressings (as described in
12 section 1861(s)(5));

13 “(E) such other items as the Secretary
14 may determine; and

15 “(F) for purposes of paragraphs (1) and
16 (3)—

17 “(i) home dialysis supplies and equip-
18 ment (as described in section
19 1861(s)(2)(F)),

20 “(ii) immunosuppressive drugs (as de-
21 scribed in section 1861(s)(2)(J)),

22 “(iii) therapeutic shoes for diabetics
23 (as described in section 1861(s)(12)),

1 “(iv) oral drugs prescribed for use as
2 an anticancer therapeutic agent (as de-
3 scribed in section 1861(s)(2)(Q)), and

4 “(v) self-administered erythropoietin
5 (as described in section 1861(s)(2)(P)).”.

6 (2) CONFORMING AMENDMENT.—Effective Oc-
7 tober 1, 1994, paragraph (16) of section 1834(a)
8 (42 U.S.C. 1395m(a)) is repealed.

9 (b) USE OF COVERED ITEMS BY DISABLED BENE-
10 FICIARIES.—

11 (1) IN GENERAL.—The Secretary of Health and
12 Human Services, in consultation with representa-
13 tives of suppliers of durable medical equipment
14 under part B of the medicare program and individ-
15 uals entitled to benefits under such program on the
16 basis of disability, shall conduct a study of the ef-
17 fects of the methodology for determining payments
18 for items of such equipment under such part on the
19 ability of such individuals to obtain items of such
20 equipment, including customized items.

21 (2) REPORT.—Not later than one year after the
22 date of the enactment of this Act, the Secretary
23 shall submit a report to Congress on the study con-
24 ducted under paragraph (1), and shall include in the
25 report such recommendations as the Secretary con-

1 siders appropriate to assure that disabled medicare
2 beneficiaries have access to items of durable medical
3 equipment.

4 (c) **CRITERIA FOR TREATMENT OF ITEMS AS PROS-**
5 **THETIC DEVICES OR ORTHOTICS AND PROSTHETICS.—**

6 Not later than one year after the date of the enactment
7 of this Act, the Secretary of Health and Human Services
8 shall submit a report to the Committees on Ways and
9 Means and Energy and Commerce of the House of Rep-
10 resentatives and the Committee on Finance of the Senate
11 describing prosthetic devices or orthotics and prosthetics
12 covered under part B of the medicare program that do
13 not require individualized or custom fitting and adjust-
14 ment to be used by a patient. Such report shall include
15 recommendations for an appropriate methodology for de-
16 termining the amount of payment for such items under
17 such program.

18 **SEC. 132. PROHIBITION AGAINST CARRIER FORUM SHOP-**
19 **PING.**

20 (a) **IN GENERAL.—**

21 (1) **PROHIBITION DESCRIBED.—**Section
22 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended
23 to read as follows:

24 “(12) **USE OF CARRIERS TO PROCESS**
25 **CLAIMS.—**

1 “(A) DESIGNATION OF REGIONAL CAR-
2 RIERS.—The Secretary may designate, one car-
3 rier for one or more entire regions to process all
4 claims within the region for covered items
5 under this section.

6 “(B) PROHIBITION AGAINST CARRIER
7 SHOPPING.—(i) Unless permitted by the Sec-
8 retary, no supplier of a covered item may
9 present or cause to be presented a claim for
10 payment under this part unless such claim is
11 presented to the appropriate regional carrier (as
12 designated by the Secretary).

13 “(ii) For purposes of clause (i), the term
14 ‘appropriate regional carrier’ means the carrier
15 having jurisdiction over the geographic area
16 that includes the permanent residence of the
17 patient to whom the item is furnished.”.

18 (2) CLARIFICATION OF AUTHORITY TO DES-
19 IGNATE CARRIERS FOR OTHER ITEMS AND SERV-
20 ICES.—Nothing in the amendment made by para-
21 graph (1) may be construed to restrict the authority
22 of the Secretary of Health and Human Services to
23 designate regional carriers or modify claims jurisdic-
24 tion rules with respect to items or services under
25 part B of the medicare program that are not covered

1 items under section 1834(a) of the Social Security
2 Act or prosthetic devices or orthotics and prosthetics
3 under section 1834(h) of such Act.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 subsection (a) shall apply to claims processed on or after
6 May 1, 1994.

7 **SEC. 133. RESTRICTIONS ON CERTAIN MARKETING AND**
8 **SALES ACTIVITIES.**

9 (a) **PROHIBITING UNSOLICITED TELEPHONE CON-**
10 **TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-**
11 **MENT TO MEDICARE BENEFICIARIES.**—

12 (1) **IN GENERAL.**—Section 1834(a) (42 U.S.C.
13 1395m(a)) is amended by adding at the end the fol-
14 lowing new paragraph:

15 “(17) **PROHIBITION AGAINST UNSOLICITED**
16 **TELEPHONE CONTACTS BY SUPPLIERS.**—

17 “(A) **IN GENERAL.**—A supplier of a cov-
18 ered item under this subsection may not contact
19 an individual enrolled under this part by tele-
20 phone regarding the furnishing of a covered
21 item to the individual unless 1 of the following
22 applies:

23 “(i) The individual has given written
24 permission to the supplier to make contact

1 by telephone regarding the furnishing of a
2 covered item.

3 “(ii) The supplier has furnished a cov-
4 ered item to the individual and the supplier
5 is contacting the individual only regarding
6 the furnishing of such covered item.

7 “(iii) If the contact is regarding the
8 furnishing of a covered item other than a
9 covered item already furnished to the indi-
10 vidual, the supplier has furnished at least
11 1 covered item to the individual during the
12 15-month period preceding the date on
13 which the supplier makes such contact.

14 “(B) PROHIBITING PAYMENT FOR ITEMS
15 FURNISHED SUBSEQUENT TO UNSOLICITED
16 CONTACTS.—If a supplier knowingly contacts
17 an individual in violation of subparagraph (A),
18 no payment may be made under this part for
19 any item subsequently furnished to the individ-
20 ual by the supplier.

21 “(C) EXCLUSION FROM PROGRAM FOR
22 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
23 LICITED CONTACTS.—If a supplier knowingly
24 contacts individuals in violation of subpara-
25 graph (A) to such an extent that the supplier’s

1 conduct establishes a pattern of contacts in vio-
2 lation of such subparagraph, the Secretary shall
3 exclude the supplier from participation in the
4 programs under this Act, in accordance with
5 the procedures set forth in subsections (c), (f),
6 and (g) of section 1128.”.

7 (2) REQUIRING REFUND OF AMOUNTS COL-
8 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
9 (42 U.S.C. 1395m(a)), as amended by paragraph
10 (1), is amended by adding at the end the following
11 new paragraph:

12 “(18) REFUND OF AMOUNTS COLLECTED FOR
13 CERTAIN DISALLOWED ITEMS.—

14 “(A) IN GENERAL.—If a nonparticipating
15 supplier furnishes to an individual enrolled
16 under this part a covered item for which no
17 payment may be made under this part by rea-
18 son of paragraph (17)(B), the supplier shall re-
19 fund on a timely basis to the patient (and shall
20 be liable to the patient for) any amounts col-
21 lected from the patient for the item, unless—

22 “(i) the supplier establishes that the
23 supplier did not know and could not rea-
24 sonably have been expected to know that

1 payment may not be made for the item by
2 reason of paragraph (17)(B), or

3 “(ii) before the item was furnished,
4 the patient was informed that payment
5 under this part may not be made for that
6 item and the patient has agreed to pay for
7 that item.

8 “(B) SANCTIONS.—If a supplier knowingly
9 and willfully fails to make refunds in violation
10 of subparagraph (A), the Secretary may apply
11 sanctions against the supplier in accordance
12 with section 1842(j)(2).

13 “(C) NOTICE.—Each carrier with a con-
14 tract in effect under this part with respect to
15 suppliers of covered items shall send any notice
16 of denial of payment for covered items by rea-
17 son of paragraph (17)(B) and for which pay-
18 ment is not requested on an assignment-related
19 basis to the supplier and the patient involved.

20 “(D) TIMELY BASIS DEFINED.—A refund
21 under subparagraph (A) is considered to be on
22 a timely basis only if—

23 “(i) in the case of a supplier who does
24 not request reconsideration or seek appeal
25 on a timely basis, the refund is made with-

1 in 30 days after the date the supplier re-
2 ceives a denial notice under subparagraph
3 (C), or

4 “(ii) in the case in which such a re-
5 consideration or appeal is taken, the re-
6 fund is made within 15 days after the date
7 the supplier receives notice of an adverse
8 determination on reconsideration or ap-
9 peal.”.

10 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
11 (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-
12 graph (12)” and inserting “Paragraphs (12) and (17)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall apply to items furnished after
15 the expiration of the 60-day period that begins on the date
16 of the enactment of this Act.

17 **SEC. 134. KICKBACK CLARIFICATION.**

18 (a) IN GENERAL.—Section 1128B(b)(3)(B) (42
19 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting be-
20 fore the semicolon the following: “(except that in the case
21 of a contract supply arrangement between any entity and
22 a supplier of medical supplies and equipment (as defined
23 in section 1834(j)(4), but not including items described
24 in subparagraph (F) of such section), such employment
25 shall not be considered bona fide to the extent that it in-

1 cludes tasks of a clerical and cataloging nature in trans-
 2 mitting to suppliers assignment rights of individuals eligi-
 3 ble for benefits under part B of title XVIII, or perform-
 4 ance of warehousing or stock inventory functions)''.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 subsection (a) shall apply with respect to services fur-
 7 nished on or after the first day of the first month that
 8 begins after the expiration of the 60-day period beginning
 9 on the date of the enactment of this Act.

10 **SEC. 135. BENEFICIARY LIABILITY FOR NONCOVERED**
 11 **SERVICES.**

12 (a) UNASSIGNED CLAIMS.—

13 (1) IN GENERAL.—Section 1834(j) (42 U.S.C.
 14 1395m(i)), as added by section 131(a)(1), is
 15 amended—

16 (A) by redesignating paragraph (4) as
 17 paragraph (5), and

18 (B) by inserting after paragraph (3) the
 19 following new paragraph:

20 “(4) LIMITATION ON PATIENT LIABILITY.—If a
 21 supplier of medical equipment and supplies (as de-
 22 fined in paragraph (5))—

23 “(A) furnishes an item or service to a ben-
 24 eficiary for which no payment may be made by
 25 reason of paragraph (1);

“(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

“(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.”.

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as amended by section 134(a), is amended by striking “1834(j)(4)” and inserting “1834(j)(5)”.

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

1 “(h) If a supplier of medical equipment and supplies
2 (as defined in section 1834(j)(5))—

3 “(1) furnishes an item or service to a bene-
4 ficiary for which no payment may be made by reason
5 of section 1834(j)(1);

6 “(2) furnishes an item or service to a bene-
7 ficiary for which payment is denied in advance under
8 section 1834(a)(15); or

9 “(3) furnishes an item or service to a bene-
10 ficiary for which no payment may be made by reason
11 of section 1834(a)(17)(B),

12 any expenses incurred for items and services furnished to
13 an individual by such a supplier on an assignment-related
14 basis shall be the responsibility of such supplier. The indi-
15 vidual shall have no financial responsibility for such ex-
16 penses and the supplier shall refund on a timely basis to
17 the individual (and shall be liable to the individual for)
18 any amounts collected from the individual for such items
19 or services. The provisions of section 1834(a)(18) shall
20 apply to refunds required under the previous sentence in
21 the same manner as such provisions apply to refunds
22 under such section.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to items or services furnished on
25 or after October 1, 1994.

1 **SEC. 136. ADJUSTMENTS FOR INHERENT REASONABLE-**
2 **NESS.**

3 (a) **ADJUSTMENTS MADE TO FINAL PAYMENT**
4 **AMOUNTS.—**

5 (1) **IN GENERAL.**—Section 1834(a)(10)(B) (42
6 U.S.C. 1395m(a)(10)(B)) is amended by adding at
7 the end the following: “In applying such provisions
8 to payments for an item under this subsection, the
9 Secretary shall make adjustments to the payment
10 basis for the item described in paragraph (1)(B) if
11 the Secretary determines (in accordance with such
12 provisions and on the basis of prices and costs appli-
13 cable at the time the item is furnished) that such
14 payment basis is not inherently reasonable.”.

15 (2) **EFFECTIVE DATE.**—The amendment made
16 by paragraph (1) shall take effect on the date of the
17 enactment of this Act.

18 (b) **ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—**

19 (1) **IN GENERAL.**—In accordance with section
20 1834(a)(10)(B) of the Social Security Act (as
21 amended by subsection (a)), the Secretary of Health
22 and Human Services shall determine whether the
23 payment amounts for the items described in para-
24 graph (2) are not inherently reasonable, and shall
25 adjust such amounts in accordance with such section
26 if the amounts are not inherently reasonable.

1 (2) ITEMS DESCRIBED.—The items referred to
 2 in paragraph (1) are decubitus care equipment,
 3 transcutaneous electrical nerve stimulators, and any
 4 other items considered appropriate by the Secretary.

5 **SEC. 137. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

6 (a) UPDATES TO PAYMENT AMOUNTS.—(1) Subpara-
 7 graph (A) of section 1834(a)(14) (42 U.S.C.
 8 1395m(a)(14)) is amended to read as follows:

9 “(A) for 1991 and 1992, the percentage
 10 increase in the consumer price index for all
 11 urban consumers (U.S. city average) for the 12-
 12 month period ending with June of the previous
 13 year reduced by 1 percentage point; and”.

14 (2) The amendment made by paragraph (1) shall be
 15 effective on the date of the enactment of this Act.

16 (b) ADVANCE DETERMINATIONS OF COVERAGE.—(1)
 17 Effective on the date of the enactment of this Act, section
 18 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to
 19 read as follows:

20 “(15) ADVANCE DETERMINATIONS OF COV-
 21 ERAGE FOR CERTAIN ITEMS.—

22 “(A) DEVELOPMENT OF LISTS OF ITEMS
 23 BY SECRETARY.—The Secretary may develop
 24 and periodically update a list of items for which
 25 payment may be made under this subsection

1 that the Secretary determines, on the basis of
2 prior payment experience, are frequently subject
3 to unnecessary utilization throughout a carrier's
4 entire service area or a portion of such area.

5 “(B) DEVELOPMENT OF LISTS OF SUPPLI-
6 ERS BY SECRETARY.—The Secretary may de-
7 velop and periodically update a list of suppliers
8 of items for which payment may be made under
9 this subsection with respect to whom—

10 “(i) the Secretary has found that a
11 substantial number of claims for payment
12 under this part for items furnished by the
13 supplier have been denied on the basis of
14 the application of section 1862(a)(1); or

15 “(ii) the Secretary has identified a
16 pattern of overutilization resulting from
17 the business practice of the supplier.

18 “(C) DETERMINATIONS OF COVERAGE IN
19 ADVANCE.—A carrier shall determine in ad-
20 vance of delivery of an item whether payment
21 for the item may not be made because the item
22 is not covered or because of the application of
23 section 1862(a)(1) if—

1 “(i) the item is included on the list
2 developed by the Secretary under subpara-
3 graph (A);

4 “(ii) the item is furnished by a sup-
5 plier included on the list developed by the
6 Secretary under subparagraph (B); or

7 “(iii) the item is a customized item
8 (other than inexpensive items specified by
9 the Secretary) and the patient to whom the
10 item is to be furnished or the supplier re-
11 quests that such advance determination be
12 made.”.

13 (2) Effective for standards applied for contract years
14 beginning after the date of the enactment of this Act, sec-
15 tion 1842(c) (42 U.S.C. 1395u(c)), as amended by section
16 125(a), is amended by adding at the end the following new
17 paragraph:

18 “(5) Each contract under this section which provides
19 for the disbursement of funds, as described in subsection
20 (a)(1)(B), shall require the carrier to meet criteria devel-
21 oped by the Secretary to measure the timeliness of carrier
22 responses to requests for payment of items described in
23 section 1834(a)(15)(C).”.

24 (3) Effective on the date of the enactment of this Act,
25 section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as amended

1 by section 133(b), is amended by striking “(12) and (17)”
2 and inserting “(12), (15), and (17)”.

3 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
4 EQUIPMENT SUPPLIER COSTS.—

5 (1) COLLECTION AND ANALYSIS OF SUPPLIER
6 COST DATA.—The Administrator of the Health Care
7 Financing Administration shall, in consultation with
8 appropriate organizations, collect data on supplier
9 costs of durable medical equipment for which pay-
10 ment may be made under part B of the medicare
11 program, and shall analyze such data to determine
12 the proportions of such costs attributable to the
13 service and product components of furnishing such
14 equipment and the extent to which such proportions
15 vary by type of equipment and by the geographic re-
16 gion in which the supplier is located.

17 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
18 MENT INDEX; REPORTS.—Not later than January 1,
19 1995—

20 (A) the Administrator shall submit a re-
21 port to the Committees on Energy and Com-
22 merce and Ways and Means of the House of
23 Representatives and the Committee on Finance
24 of the Senate on the data collected and the
25 analysis conducted under paragraph (1), and

1 shall include in such report the Administrator's
2 recommendations for a geographic cost adjust-
3 ment index for suppliers of durable medical
4 equipment under the medicare program and an
5 analysis of the impact of such proposed index
6 on payments under the medicare program; and

7 (B) the Comptroller General shall submit a
8 report to the Committees on Energy and Com-
9 merce and Ways and Means of the House of
10 Representatives and the Committee on Finance
11 of the Senate analyzing on a geographic basis
12 the supplier costs of durable medical equipment
13 under the medicare program.

14 (d) OXYGEN RETESTING.—(1) Section
15 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by
16 striking “55” and inserting “56”.

17 (2) The amendment made by paragraph (1) shall be
18 effective on the date of the enactment of this Act.

19 (e) OTHER MISCELLANEOUS AND TECHNICAL
20 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990
21 is amended by striking “amendment made by subsection
22 (a)” and inserting “amendments made by this sub-
23 section”.

1 (2) Section 4152(c)(2) of OBRA-1990 is amended
2 by striking “1395m(a)(7)(A)” and inserting
3 “1395m(a)(7)”.

4 (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.
5 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause
6 (v)” and inserting “clause (vi)”.

7 (4) Section 1834(a)(7)(C)(i) (42 U.S.C.
8 1395m(a)(7)(C)(i)) is amended by striking “or paragraph
9 (3)”.

10 (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is
11 amended by striking subparagraph (D).

12 (6) Section 4153(c)(1) of OBRA-1990 is amended
13 by striking “1834(a)” and inserting “1834(h)”.

14 (7) Section 4153(d)(2) of OBRA-1990 is amended
15 by striking “Reconiliation” and inserting “Reconcili-
16 ation”.

17 (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is
18 amended by striking paragraph (6).

19 (B) Section 1834(a) (42 U.S.C. 1395m(a)) is
20 amended—

21 (i) in subparagraphs (A) and (B) of paragraph
22 (1), by striking “(2) through (7)” each place it ap-
23 pears and inserting “(2) through (5) and (7)”;

24 (ii) in paragraph (7), by striking “(2) through
25 (6)” and inserting “(2) through (5)”;

(iii) in paragraph (8), by striking “paragraphs (6) and (7)” each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting “paragraph (7)”; and

(iv) in paragraph (8)(A)(i), by striking “described—” and all that follows and inserting “described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.”.

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

PART III—OTHER ITEMS AND SERVICES

SEC. 141. AMBULATORY SURGICAL CENTER SERVICES.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: “, as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5

1 years thereafter, of the actual audited costs incurred
2 by such centers in providing such services,”.

3 (2) AUTOMATIC APPLICATION OF INFLATION
4 ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C.
5 1395l(i)(2)) is amended—

6 (A) in the second sentence of subpara-
7 graph (A) and the second sentence of subpara-
8 graph (B), by striking “and may be adjusted by
9 the Secretary, when appropriate,”; and

10 (B) by adding at the end the following new
11 subparagraph:

12 “(C) Notwithstanding the second sentence of sub-
13 paragraph (A) or the second sentence of subparagraph
14 (B), if the Secretary has not updated amounts established
15 under such subparagraphs with respect to facility services
16 furnished during a fiscal year (beginning with fiscal year
17 1996), such amounts shall be increased by the percentage
18 increase in the consumer price index for all urban consum-
19 ers (U.S. city average) as estimated by the Secretary for
20 the 12-month period ending with the midpoint of the year
21 involved.”.

22 (3) CONSULTATION REQUIREMENT.—The sec-
23 ond sentence of section 1833(i)(1) (42 U.S.C.
24 1395l(i)(1)) is amended by striking the period and

1 inserting the following: “, in consultation with ap-
2 propriate trade and professional organizations.”.

3 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW
4 TECHNOLOGY INTRAOCULAR LENSES.—

5 (1) ESTABLISHMENT OF PROCESS FOR REVIEW
6 OF AMOUNTS.—Not later than 1 year after the date
7 of the enactment of this Act, the Secretary of
8 Health and Human Services (in this subsection re-
9 ferred to as the “Secretary”) shall develop and im-
10 plement a process under which interested parties
11 may request review by the Secretary of the appro-
12 priateness of the reimbursement amount provided
13 under section 1833(i)(2)(A)(iii) of the Social Secu-
14 rity Act with respect to a class of new technology
15 intraocular lenses. For purposes of the preceding
16 sentence, an intraocular lens may not be treated as
17 a new technology lens unless it has been approved
18 by the Food and Drug Administration.

19 (2) FACTORS CONSIDERED.—In determining
20 whether to provide an adjustment of payment with
21 respect to a particular lens under paragraph (1), the
22 Secretary shall take into account whether use of the
23 lens is likely to result in reduced risk of
24 intraoperative or postoperative complication or trau-
25 ma, accelerated postoperative recovery, reduced in-

1 duced astigmatism, improved postoperative visual
2 acuity, more stable postoperative vision, or other
3 comparable clinical advantages.

4 (3) NOTICE AND COMMENT.—The Secretary
5 shall publish notice in the Federal Register from
6 time to time (but no less often than once each year)
7 of a list of the requests that the Secretary has re-
8 ceived for review under this subsection, and shall
9 provide for a 30-day comment period on the lenses
10 that are the subjects of the requests contained in
11 such notice. The Secretary shall publish a notice of
12 the Secretary's determinations with respect to intra-
13 ocular lenses listed in the notice within 90 days after
14 the close of the comment period.

15 (4) EFFECTIVE DATE OF ADJUSTMENT.—Any
16 adjustment of a payment amount (or payment limit)
17 made under this subsection shall become effective
18 not later than 30 days after the date on which the
19 notice with respect to the adjustment is published
20 under paragraph (3).

21 (c) TECHNICAL CORRECTION RELATING TO BLEND
22 AMOUNTS FOR AMBULATORY SURGICAL CENTER PAY-
23 MENTS.—

1 (1) IN GENERAL.—Subclauses (I) and (II) of
 2 section 1833(i)(3)(B)(ii) (42 U.S.C.
 3 1395l(i)(3)(B)(ii)) are each amended—

4 (A) by striking “for reporting” and insert-
 5 ing “for portions of cost reporting”; and

6 (B) by striking “and on or before” and in-
 7 serting “and ending on or before”.

8 (2) EFFECTIVE DATE.—The amendments made
 9 by paragraph (1) shall take effect as if included in
 10 the enactment of OBRA-1990.

11 (d) TECHNICAL CORRECTION RELATED TO CATA-
 12 RACT SURGERY.—Effective as if included in the enact-
 13 ment of OBRA-1990, section 4151(c)(3) of such Act is
 14 amended by striking “for the insertion of an intraocular
 15 lens” and inserting “for an intraocular lens inserted”.

16 **SEC. 142. STUDY OF MEDICARE COVERAGE OF PATIENT**
 17 **CARE COSTS ASSOCIATED WITH CLINICAL**
 18 **TRIALS OF NEW CANCER THERAPIES.**

19 (a) STUDY.—The Secretary of Health and Human
 20 Services shall conduct a study of the effects of expressly
 21 covering under the medicare program the patient care
 22 costs for beneficiaries enrolled in clinical trials of new can-
 23 cer therapies, where the protocol for the trial has been
 24 approved by the National Cancer Institute or meets simi-

1 lar scientific and ethical standards, including approval by
2 an institutional review board. The study shall include—

3 (1) an estimate of the cost of such coverage,
4 taking into account the extent to which medicare
5 currently pays for such patient care costs in prac-
6 tice;

7 (2) an assessment of the extent to which such
8 clinical trials represent the best available treatment
9 for the patients involved and of the effects of partici-
10 pation in the trials on the health of such patients;

11 (3) an assessment of whether progress in devel-
12 oping new anticancer therapies would be assisted by
13 medicare coverage of such patient care costs; and

14 (4) an evaluation of whether there should be
15 special criteria for the admission of medicare bene-
16 ficiaries (on account of their age or physical condi-
17 tion) to clinical trials for which medicare would pay
18 the patient care costs.

19 (b) REPORT.—Not later than 2 years after the date
20 of the enactment of this Act, the Secretary of Health and
21 Human Services shall submit a report on the study con-
22 ducted under subsection (a) to the Committee on Ways
23 and Means and the Committee on Energy and Commerce
24 of the House of Representatives and the Committee on
25 Finance of the Senate. Such report shall include rec-

1 ommendations as to the coverage under the medicare pro-
2 gram of patient care costs of beneficiaries enrolled in clini-
3 cal trials of new cancer therapies.

4 **SEC. 143. STUDY OF ANNUAL CAP ON AMOUNT OF MEDI-**
5 **CARE PAYMENT FOR OUTPATIENT PHYSICAL**
6 **THERAPY AND OCCUPATIONAL THERAPY**
7 **SERVICES.**

8 (a) STUDY.—The Secretary of Health and Human
9 Services shall conduct a study of the appropriateness of
10 continuing an annual limitation on the amount of payment
11 for outpatient services of independently practicing physical
12 and occupational therapists under the medicare program.

13 (b) REPORT.—By not later than January 1, 1995,
14 the Secretary shall submit to the Committees on Energy
15 and Commerce and Ways and Means of the House of Rep-
16 resentatives and the Committee on Finance of the Senate
17 a report on the study conducted under subsection (a).
18 Such report shall include such recommendations for
19 changes in such annual limitation as the Secretary finds
20 appropriate.

21 **SEC. 144. PAYMENT OF PART B PREMIUM LATE ENROLL-**
22 **MENT PENALTIES BY STATES.**

23 Section 1839 (42 U.S.C. 1395r) is amended by add-
24 ing at the end the following new subsection:

1 “(g)(1) Upon the request of a State, the Secretary
2 may enter into an agreement with the State under which
3 the State agrees to pay on a quarterly or other periodic
4 basis to the Secretary (to be deposited in the Treasury
5 to the credit of the Federal Supplementary Medical Insur-
6 ance Trust Fund) an amount equal to the amount of the
7 part B late enrollment premium increases with respect to
8 the premiums for eligible individuals (as defined in para-
9 graph (3)(A)).

10 “(2) No part B late enrollment premium increase
11 shall apply to an eligible individual for premiums for
12 months for which the amount of such an increase is pay-
13 able under an agreement under paragraph (1).

14 “(3) In this subsection:

15 “(A) The term ‘eligible individual’ means an in-
16 dividual who is enrolled under this part B and who
17 is within a class of individuals specified in the agree-
18 ment under paragraph (1).

19 “(B) The term ‘part B late enrollment premium
20 increase’ means any increase in a premium as a re-
21 sult of the application of subsection (b).”.

1 **SEC. 145. TREATMENT OF INPATIENTS AND PROVISION OF**
 2 **DIAGNOSTIC X-RAY SERVICES BY RURAL**
 3 **HEALTH CLINICS AND FEDERALLY QUALI-**
 4 **FIED HEALTH CENTERS.**

5 (a) TREATMENT OF INPATIENTS.—Section 1861(aa)
 6 (42 U.S.C. 1395x(aa)) is amended—

7 (1) in paragraph (1), in the matter following
 8 subparagraph (C), by striking “as an outpatient”
 9 and inserting “as a patient”;

10 (2) in paragraph (2)(A), by striking “furnishing
 11 to outpatients” and inserting “furnishing to pa-
 12 tients”; and

13 (3) in paragraph (3), in the matter following
 14 subparagraph (B), by striking “as an outpatient”
 15 and inserting “as a patient”.

16 (b) TREATMENT OF DIAGNOSTIC X-RAY SERV-
 17 ICES.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further
 18 amended—

19 (1) in paragraph (1)(A), by inserting “(i)” after
 20 “(A)” and by adding at the end the following: “and
 21 (ii) diagnostic x-ray services,” and

22 (2) in paragraph (2)(A), by striking “(A)” and
 23 inserting “(A)(i)”.

24 (c) CONFORMING AMENDMENT.—Section
 25 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by
 26 striking “and services of a certified registered nurse anes-

1 thetist” and inserting “services of a certified registered
 2 nurse anesthetist, rural health clinic services, and Feder-
 3 ally-qualified health center services”.

4 (d) **EFFECTIVE DATE.**—The amendments made by
 5 this section shall take effect on January 1, 1994, and shall
 6 apply to services furnished on or after such date.

7 **SEC. 146. APPLICATION OF MAMMOGRAPHY CERTIFI-**
 8 **CATION REQUIREMENTS.**

9 (a) **SCREENING MAMMOGRAPHY.**—Section 1834(c)
 10 (42 U.S.C. 1395m(c)) is amended—

11 (1) in paragraph (1)(B), by striking “meets the
 12 quality standards established under paragraph (3)”
 13 and inserting “is conducted by a facility that has a
 14 certificate (or provisional certificate) issued under
 15 section 354 of the Public Health Service Act”;

16 (2) in paragraph (1)(C)(iii), by striking “para-
 17 graph (4)” and inserting “paragraph (3)”;

18 (3) by striking paragraph (3); and

19 (4) by redesignating paragraphs (4) and (5) as
 20 paragraphs (3) and (4).

21 (b) **DIAGNOSTIC MAMMOGRAPHY.**—Section
 22 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by insert-
 23 ing “and including diagnostic mammography if conducted
 24 by a facility that has a certificate (or provisional certifi-

1 cate) issued under section 354 of the Public Health Serv-
2 ice Act” after “necessary”.

3 (c) CONFORMING AMENDMENTS.—(1) Section
4 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by
5 striking “or which does not meet the standards established
6 under section 1834(c)(3)” and inserting “or which is not
7 conducted by a facility described in section
8 1834(c)(1)(B)”.

9 (2) Section 1863 (42 U.S.C. 1395z) is amended by
10 striking “or whether screening mammography meets the
11 standards established under section 1834(c)(3),”.

12 (3) The first sentence of section 1864(a) (42 U.S.C.
13 1395aa(a)) is amended by striking “, or whether screening
14 mammography meets the standards established under sec-
15 tion 1834(c)(3)”.

16 (4) The third sentence of section 1865(a) (42 U.S.C.
17 1395bb(a)) is amended by striking “1834(c)(3),”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to mammography furnished by a
20 facility on and after the first date that the certificate re-
21 quirements of section 354(b) of the Public Health Service
22 Act apply to such mammography conducted by such facil-
23 ity.

1 **SEC. 147. COVERAGE OF SERVICES OF SPEECH-LANGUAGE**
 2 **PATHOLOGISTS AND AUDIOLOGISTS.**

3 (a) **SERVICES DEFINED.**—Section 1861 (42 U.S.C.
 4 1395x), as amended by section 148(f)(6)(E), is amended
 5 by inserting after subsection (kk) the following new sub-
 6 section:

7 “Speech-Language Pathology Services; Audiology
 8 Services

9 “(ll)(1) The term ‘speech-language pathology serv-
 10 ices’ means such speech, language, and related function
 11 assessment and rehabilitation services furnished by a
 12 qualified speech-language pathologist as the speech-lan-
 13 guage pathologist is legally authorized to perform under
 14 State law (or the State regulatory mechanism provided by
 15 State law) as would otherwise be covered if furnished by
 16 a physician.

17 “(2) The term ‘audiology services’ means such hear-
 18 ing and balance assessment services furnished by a quali-
 19 fied audiologist as the audiologist is legally authorized to
 20 perform under State law (or the State regulatory mecha-
 21 nism provided by State law), as would otherwise be cov-
 22 ered if furnished by a physician.

23 “(3) In this subsection:

24 “(A) The term ‘qualified speech-language pa-
 25 thologist’ means an individual with a master’s or
 26 doctoral degree in speech-language pathology who—

1 “(i) is licensed as a speech-language pa-
2 thologist by the State in which the individual
3 furnishes such services, or

4 “(ii) in the case of an individual who fur-
5 nishes services in a State which does not license
6 speech-language pathologists, has successfully
7 completed 350 clock hours of supervised clinical
8 practicum (or is in the process of accumulating
9 such supervised clinical experience), performed
10 not less than 1 month of supervised full-time
11 speech-language pathology services after obtain-
12 ing a master’s or doctoral degree in speech-lan-
13 guage pathology or a related field, and success-
14 fully completed a national examination in
15 speech-language pathology approved by the Sec-
16 retary.

17 “(B) The term ‘qualified audiologist’ means an
18 individual with a master’s or doctoral degree in
19 audiology who—

20 “(i) is licensed as a speech-language pa-
21 thologist by the State in which the individual
22 furnishes such services, or

23 “(ii) in the case of an individual who fur-
24 nishes services in a State which does not license
25 speech-language pathologists, has successfully

completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary."

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking “, occupational, or speech therapy” and inserting “or occupational therapy or speech-language pathology services”.

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking “, occupational, or speech therapy” and inserting “or occupational therapy or speech-language pathology services”.

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42

1 U.S.C. 1395x(p)) is amended by striking “speech
 2 pathology services” and inserting “speech-language
 3 pathology services”.

4 (4) COMPREHENSIVE OUTPATIENT REHABILITA-
 5 TION FACILITY SERVICES.—Section 1861(cc)(1)(B)
 6 (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking
 7 “speech pathology services” and inserting “speech-
 8 language pathology services”.

9 (5) HOSPICE CARE.—Section 1861(dd)(1)(B)
 10 (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking
 11 “therapy or speech-language pathology” and insert-
 12 ing “therapy, or speech-language pathology serv-
 13 ices”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall take effect on January 1, 1994.

16 **SEC. 148. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

17 (a) REVISION OF INFORMATION ON PART B CLAIMS
 18 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is
 19 amended—

20 (1) by striking “provider number” and inserting
 21 “unique physician identification number”; and

22 (2) by striking “and indicate whether or not the
 23 referring physician is an interested investor (within
 24 the meaning of section 1877(h)(5))”.

1 (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-
2 tive with respect to services furnished on or after January
3 1, 1991, section 6113(c) of OBRA-1989 is amended—

4 (1) by inserting “and clinical social worker
5 services” after “psychologist services”; and

6 (2) by striking “psychologist” the second and
7 third place it appears and inserting “psychologist or
8 clinical social worker”.

9 (c) REPORTS ON HOSPITAL OUTPATIENT PAY-
10 MENT.—(1) OBRA-1989 is amended by striking section
11 6137.

12 (2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is
13 amended—

14 (A) by striking paragraph (6); and

15 (B) in paragraph (7)—

16 (i) by striking “systems” each place it ap-
17 pears and inserting “system”; and

18 (ii) by striking “paragraphs (1) and (6)”
19 and inserting “paragraph (1)”.

20 (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-
21 VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1)
22 Effective as if included in the enactment of OBRA-1989,
23 section 1833(n)(1)(B)(i)(II) (42 U.S.C.
24 1395l(n)(1)(B)(i)(II)) is amended—

1 (A) by inserting “and for services described in
2 subsection (a)(2)(E)(ii) furnished on or after Janu-
3 ary 1, 1992” after “1989”; and

4 (B) by striking “1842(b)” and inserting
5 “1842(b) (or, in the case of services furnished on or
6 after January 1, 1992, under section 1848)”.

7 (2) Effective as if included in the enactment of
8 OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.
9 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,
10 1989” and inserting “April 1, 1989”.

11 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL
12 AREAS (SECTION 4155 OF OBRA-1990).—(1) Section
13 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is
14 amended—

15 (A) by striking “subsection (aa)(3)” and insert-
16 ing “subsection (aa)(5)”; and

17 (B) by striking “subsection (aa)(4)” and insert-
18 ing “subsection (aa)(6)”.

19 (2) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is
20 amended—

21 (A) by striking “ambulatory” each place it ap-
22 pears and inserting “or ambulatory”; and

23 (B) by striking “center,” and inserting “cen-
24 ter”.

1 (3) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))
 2 is amended by striking “subsection (a)(1)(M)” and insert-
 3 ing “subsection (a)(1)(O)”.

4 (4) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is
 5 amended by striking “subsection (s)(2)(K)(i)” and insert-
 6 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

7 (5) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is
 8 amended by striking “this Act” and inserting “this title”.

9 (6) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is
 10 amended by striking “1861(s)(2)(K)(i)” and inserting
 11 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

12 (7) Section 1866(a)(1)(H) (42 U.S.C.
 13 1395cc(a)(1)(H)) is amended by striking
 14 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or
 15 1861(s)(2)(K)(iii)”.

16 (f) OTHER MISCELLANEOUS AND TECHNICAL
 17 AMENDMENTS.—

18 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-
 19 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED
 20 PLAN.—(A) Subparagraphs (A) and (B) of section
 21 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each
 22 amended—

23 (i) by striking “beginning with the first
 24 day of the first month in which the individual
 25 is no longer enrolled” and inserting “including

1 each month during any part of which the indi-
2 vidual is enrolled”; and

3 (ii) by striking “and ending seven months
4 later” and inserting “ending with the last day
5 of the eighth consecutive month in which the in-
6 dividual is at no time so enrolled”.

7 (B) Paragraphs (1) and (2) of section 1838(e)
8 (42 U.S.C. 1395q(e)) are amended to read as fol-
9 lows:

10 “(1) in any month of the special enrollment pe-
11 riod in which the individual is at any time enrolled
12 in a plan (specified in subparagraph (A) or (B), as
13 applicable, of section 1837(i)(3)) or in the first
14 month following such a month, the coverage period
15 shall begin on the first day of the month in which
16 the individual so enrolls (or, at the option of the in-
17 dividual, on the first day of any of the following
18 three months), or

19 “(2) in any other month of the special enroll-
20 ment period, the coverage period shall begin on the
21 first day of the month following the month in which
22 the individual so enrolls.”.

23 (C) The amendments made by subparagraphs
24 (A) and (B) shall take effect on the first day of the
25 first month that begins after the expiration of the

1 120-day period that begins on the date of the enact-
 2 ment of this Act.

3 (2) CLINICAL DIAGNOSTIC LABORATORY
 4 TESTS.—Section 4154(e)(5) of OBRA-1990 is
 5 amended by striking “(1)(A)” and inserting
 6 “(1)(A),”.

7 (3) SEPARATE PAYMENT UNDER PART B FOR
 8 CERTAIN SERVICES.—Section 4157(a) of OBRA-
 9 1990 is amended by striking “(a) SERVICES OF”
 10 and all that follows through “Section” and inserting
 11 “(a) TREATMENT OF SERVICES OF CERTAIN
 12 HEALTH PRACTITIONERS.—Section”.

13 (4) COMMUNITY HEALTH CENTERS AND RURAL
 14 HEALTH CLINICS.—(A) The fourth sentence of sec-
 15 tion 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is
 16 amended—

17 (i) by striking “certification” the first
 18 place it appears and inserting “approval”; and

19 (ii) by striking “the Secretary’s approval
 20 or disapproval of the certification” and insert-
 21 ing “Secretary’s approval or disapproval”.

22 (B) Section 4161(a)(7)(B) of OBRA-1990 is
 23 amended by inserting “and to the Committee on Fi-
 24 nance of the Senate” after “Representatives”.

1 (5) SCREENING MAMMOGRAPHY.—Section 4163
2 of OBRA-1990 is amended—

3 (A) by adding at the end of subsection (d)
4 the following new paragraph:

5 “(3) The amendment made by paragraph
6 (2)(A)(iv) shall apply to screening pap smears per-
7 formed on or after July 1, 1990.”; and

8 (B) in subsection (e), by striking “The
9 amendments” and inserting “Except as pro-
10 vided in subsection (d)(3), the amendments”.

11 (6) INJECTABLE DRUGS FOR TREATMENT OF
12 OSTEOPOROSIS.—

13 (A) CLARIFICATION OF DRUGS COV-
14 ERED.—The section 1861(jj) (42 U.S.C.
15 1395x(jj)) inserted by section 4156(a)(2) of
16 OBRA-1990 is amended—

17 (i) in the matter preceding paragraph
18 (1), by striking “a bone fracture related
19 to”; and

20 (ii) in paragraph (1), by striking “pa-
21 tient” and inserting “individual has suf-
22 fered a bone fracture related to post-meno-
23 pausal osteoporosis and that the individ-
24 ual”.

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended by striking “if” and inserting “by a home health agency if”.

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking “but excluding” and inserting “and a covered osteoporosis drug (as defined in subsection (kk), but excluding other”.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding “and” at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking “health services” and inserting “health services (other than a covered osteoporosis drug (as defined in section 1861(kk)))”;

1 (ii) by striking “and” at the end of
2 subparagraph (D);

3 (iii) by striking the semicolon at the
4 end of subparagraph (E) and inserting “;
5 and”; and

6 (iv) by adding at the end the following
7 new subparagraph:

8 “(F) with respect to a covered osteoporosis
9 drug (as defined in section 1861(kk)) furnished
10 by a home health agency, 80 percent of the rea-
11 sonable cost of such service, as determined
12 under section 1861(v);”.

13 (D) APPLICATION OF PART B DEDUCT-
14 IBLE.—Section 1833(b)(2) (42 U.S.C.
15 1395l(b)(2)) is amended by striking “services”
16 and inserting “services (other than a covered
17 osteoporosis drug (as defined in section
18 1861(kk)))”.

19 (E) COVERED OSTEOPOROSIS DRUG (SEC-
20 TION 4156 OF OBRA-1990).—Section 1861 (42
21 U.S.C. 1395x) is amended, in the subsection
22 (jj) inserted by section 4156(a)(2) of OBRA-
23 1990, by striking “(jj) The term” and inserting
24 “(kk) The term”.

(7) OTHER MISCELLANEOUS AND TECHNICAL
CORRECTIONS.—

(A) OWNERSHIP DISCLOSURE REQUIRE-
MENTS.—(i) Section 1124A(a)(2)(A) (42
U.S.C. 1320a–3a(a)(2)(A)) is amended by
striking “of the Social Security Act”.

(ii) Section 4164(b)(4) of OBRA–1990 is
amended by striking “paragraph” and inserting
“paragraphs”.

(B) DIRECTORY OF UNIQUE PHYSICIAN
IDENTIFIER NUMBERS.—Section 4164(c) of
OBRA–1990 is amended by striking “publish”
and inserting “publish, and shall periodically
update,”.

(g) EFFECTIVE DATE.—Except as otherwise provided
in this section, the amendments made by this section shall
take effect as if included in the enactment of OBRA–1990.

Subtitle C—Provisions Relating to Parts A and B

SEC. 151. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SEC-
ONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

1 (A) IN GENERAL.—Section 1862(b)(5) (42
2 U.S.C. 1395y(b)(5)) is amended by adding at
3 the end the following new subparagraph:

4 “(D) OBTAINING INFORMATION FROM
5 BENEFICIARIES.—Before an individual applies
6 for benefits under part A or enrolls under part
7 B, the Administrator shall mail the individual a
8 questionnaire to obtain information on whether
9 the individual is covered under a primary plan
10 and the nature of the coverage provided under
11 the plan, including the name, address, and iden-
12 tifying number of the plan.”.

13 (B) DISTRIBUTION OF QUESTIONNAIRE BY
14 CONTRACTOR.—The Secretary of Health and
15 Human Services shall enter into an agreement
16 with an entity not later than July 1, 1994, to
17 distribute the questionnaire described in section
18 1862(b)(5)(D) of the Social Security Act (as
19 added by subparagraph (A)).

20 (C) NO MEDICARE SECONDARY PAYER DE-
21 NIAL BASED ON FAILURE TO COMPLETE QUES-
22 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.
23 1395y(b)(2)) is amended by adding at the end
24 the following new subparagraph:

1 “(C) TREATMENT OF QUESTIONNAIRES.—

2 The Secretary may not fail to make payment
3 under subparagraph (A) solely on the ground
4 that an individual failed to complete a question-
5 naire concerning the existence of a primary
6 plan.”.

7 (2) MANDATORY SCREENING BY PROVIDERS
8 AND SUPPLIERS UNDER PART B.—

9 (A) IN GENERAL.—Section 1862(b) (42
10 U.S.C. 1395y(b)) is amended by adding at the
11 end the following new paragraph:

12 “(6) SCREENING REQUIREMENTS FOR PROVID-
13 ERS AND SUPPLIERS.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this title, no payment may be
16 made for any item or service furnished under
17 part B unless the entity furnishing such item or
18 service completes (to the best of its knowledge
19 and on the basis of information obtained from
20 the individual to whom the item or service is
21 furnished) the portion of the claim form relat-
22 ing to the availability of other health benefit
23 plans.

24 “(B) PENALTIES.—An entity that know-
25 ingly, willfully, and repeatedly fails to complete

1 a claim form in accordance with subparagraph
2 (A) or provides inaccurate information relating
3 to the availability of other health benefit plans
4 on a claim form under such subparagraph shall
5 be subject to a civil money penalty of not to ex-
6 ceed \$2,000 for each such incident. The provi-
7 sions of section 1128A (other than subsections
8 (a) and (b)) shall apply to a civil money penalty
9 under the previous sentence in the same man-
10 ner as such provisions apply to a penalty or
11 proceeding under section 1128A(a).”.

12 (B) EFFECTIVE DATE.—The amendment
13 made by subparagraph (A) shall apply with re-
14 spect to items and services furnished on or
15 after January 1, 1994.

16 (b) IMPROVEMENTS IN RECOVERY OF PAYMENTS
17 FROM PRIMARY PAYERS.—

18 (1) SUBMISSION OF REPORTS ON EFFORTS TO
19 RECOVER ERRONEOUS PAYMENTS.—

20 (A) FISCAL INTERMEDIARIES UNDER PART
21 A.—Section 1816 (42 U.S.C. 1396h) is amend-
22 ed by adding at the end the following new sub-
23 section:

24 “(k) An agreement with an agency or organization
25 under this section shall require that such agency or orga-

1 nization submit an annual report to the Secretary describ-
 2 ing the steps taken to recover payments made for items
 3 or services for which payment has been or could be made
 4 under a primary plan (as defined in section
 5 1862(b)(2)(A)).”.

6 (B) CARRIERS UNDER PART B.—Section
 7 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is
 8 amended—

9 (i) by striking “and” at the end of
 10 subparagraph (G);

11 (ii) by striking “and” at the end of
 12 subparagraph (H); and

13 (iii) by inserting after subparagraph
 14 (H) the following new subparagraph:

15 “(I) will submit annual reports to the Secretary
 16 describing the steps taken to recover payments made
 17 under this part for items or services for which pay-
 18 ment has been or could be made under a primary
 19 plan (as defined in section 1862(b)(2)(A)); and”.

20 (2) REQUIREMENTS UNDER CARRIER PERFORM-
 21 ANCE EVALUATION PROGRAM.—

22 (A) FISCAL INTERMEDIARIES UNDER PART
 23 A.—Section 1816(f)(1)(A) (42 U.S.C.
 24 1396h(f)(1)(A)) is amended by striking “proc-
 25 essing” and inserting “processing (including the

1 agency's or organization's success in recovering
2 payments made under this title for services for
3 which payment has been or could be made
4 under a primary plan (as defined in section
5 1862(b)(2)(A)))”.

6 (B) CARRIERS UNDER PART B.—Section
7 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended
8 by adding at the end the following new sub-
9 paragraph:

10 “(D) In addition to any other standards and criteria
11 established by the Secretary for evaluating carrier per-
12 formance under this paragraph relating to avoiding erro-
13 neous payments, the carrier shall be subject to standards
14 and criteria relating to the carrier's success in recovering
15 payments made under this part for items or services for
16 which payment has been or could be made under a pri-
17 mary plan (as defined in section 1862(b)(2)(A)).”.

18 (3) DEADLINE FOR REIMBURSEMENT BY PRI-
19 MARY PLANS.—

20 (A) IN GENERAL.—Section
21 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))
22 is amended by adding at the end the following
23 sentence: “If reimbursement is not made to the
24 appropriate Trust Fund before the expiration of
25 the 60-day period that begins on the date such

1 notice or other information is received, the Sec-
2 retary may charge interest (beginning with the
3 date on which the notice or other information
4 is received) on the amount of the reimburse-
5 ment until reimbursement is made (at a rate
6 determined by the Secretary in accordance with
7 regulations of the Secretary of the Treasury
8 applicable to charges for late payments).”.

9 (B) CONFORMING AMENDMENT.—The
10 heading of clause (i) of section 1862(b)(2)(B) is
11 amended to read as follows: “REPAYMENT RE-
12 QUIRED.—”.

13 (C) EFFECTIVE DATE.—The amendments
14 made by this paragraph shall apply to payments
15 for items and services furnished on or after the
16 date of the enactment of this Act.

17 (4) EFFECTIVE DATE.—The amendments made
18 by paragraphs (1) and (2) shall apply to contracts
19 with fiscal intermediaries and carriers under title
20 XVIII of the Social Security Act for years beginning
21 with 1994.

22 (c) MISCELLANEOUS AND TECHNICAL CORREC-
23 TIONS.—

24 (1) Effective as if included in the enactment of
25 OBRA–1993, section 1862(b)(1)(A) (42 U.S.C.

1 1395y(b)(1)(A)), as amended by section 13561(e)(1)
2 of OBRA-1993, is amended—

3 (A) in clause (i)(II), by striking “over (and
4 the individual’s spouse age 65 or older) who is
5 covered under the plan by virtue of the individ-
6 ual’s current employment status with an em-
7 ployer” and inserting “older (and the spouse
8 age 65 or older of any individual) who has cur-
9 rent employment status with an employer”; and

10 (B) in clause (ii), by striking “or employee
11 organization that has 20 or more individuals in
12 current employment status” and inserting “that
13 has 20 or more employees”.

14 (2) Effective as if included in the enactment of
15 OBRA-1993, section 1837(i) (42 U.S.C. 1395p(i))
16 is amended—

17 (A) by striking “as an active individual (as
18 those terms are defined in section
19 1862(b)(1)(B)(iv))” each place it appears in the
20 second sentence of paragraph (1), and the sec-
21 ond sentence of paragraph (2) and inserting
22 “(as that term is defined in section
23 1862(b)(1)(B)(iv)) by reason of the individual’s
24 current employment status (or the current em-

1 employment status of a family member of the indi-
2 vidual));

3 (B) in paragraph (3)(B), by striking “as
4 an active individual in a large group health plan
5 (as such terms are defined in section
6 1862(b)(1)(B)(iv))” and inserting “in a large
7 group health plan (as that term is defined in
8 section 1862(b)(1)(B)(iv)) by reason of the in-
9 dividual’s current employment status (or the
10 current employment status of a family member
11 of the individual));

12 (C) in the second sentence of paragraph
13 (2) (as amended by subparagraph (A)), by
14 striking “as an active individual” and inserting
15 “by reason of the individual’s current employ-
16 ment status (or the current employment status
17 of a family member of the individual)); and

18 (D) by inserting “status” after “current
19 employment” each place it appears in para-
20 graphs (1)(A), (2)(B), (2)(C), and (3)(A).

21 (3) Effective as if included in the enactment of
22 OBRA-1993, the second sentence of section 1839(b)
23 (42 U.S.C. 1395r(b)) is amended—

24 (A) by inserting “status” after “current
25 employment”, and

1 (B) by striking “as an active individual (as
2 those terms are defined in section
3 1862(b)(1)(B)(iv))” and inserting “(as that
4 term is defined in section 1862(b)(1)(B)(iv)) by
5 reason of the individual’s current employment
6 status (or the current employment status of a
7 family member of the individual)”.

8 (4) Effective as if included in the enactment of
9 OBRA–1990, the sentence in section 1862(b)(1)(C)
10 added by section 4203(c)(1)(B) of OBRA–1990 is
11 amended by striking “clauses (i) and (ii)” and in-
12 serting “this subparagraph”.

13 (5) Effective as if included in the enactment of
14 OBRA–1989, section 1862(b)(1)(C) is amended in
15 the matter after clause (ii), by striking “taking into
16 account that” and inserting “paying benefits second-
17 ary to this title when”.

18 (6) Effective as if included in the enactment of
19 OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C.
20 1395y(b)(5)(C)(i)) is amended by striking
21 “6103(l)(12)(D)(iii)” and inserting
22 “6103(l)(12)(E)(iii)”.

23 (7) Effective as if included in the enactment of
24 OBRA–1990, section 4203(c)(2) of such Act is
25 amended—

1 (A) by striking “the application of clause
2 (iii)” and inserting “the second sentence”;

3 (B) by striking “on individuals” and all
4 that follows through “section 226A of such
5 Act”;

6 (C) in clause (ii), by striking “clause” and
7 inserting “sentence”;

8 (D) in clause (v), by adding “and” at the
9 end; and

10 (E) in clause (vi)—

11 (i) by inserting “of such Act” after
12 “1862(b)(1)(C)”, and

13 (ii) by striking the period at the end
14 and inserting the following: “, without re-
15 gard to the number of employees covered
16 by such plans.”.

17 (8) Effective as if included in the enactment of
18 OBRA-1990, section 4203(d) of OBRA-1990 is
19 amended by striking “this subsection” and inserting
20 “this section”.

21 (9) Effective as if included in the enactment of
22 OBRA-1993, section 13561(e)(1)(D) of OBRA-
23 1993 is amended—

1 (A) by inserting “effective as if included in
2 the enactment of OBRA-1989,” after “(D)”,
3 and

4 (B) by striking “of each subparagraph”.

5 (10) The amendment made by section
6 13561(e)(1)(G) of OBRA-1993, to the extent it re-
7 lates to the definition of large group health plan,
8 shall be effective as if included in the enactment of
9 OBRA-1989.

10 **SEC. 152. PHYSICIAN OWNERSHIP AND REFERRAL.**

11 (a) IN GENERAL.—Section 1877(f) (42 U.S.C.
12 1395nn) is amended—

13 (1) in the matter before paragraph (1), by in-
14 serting “, investment, and compensation” after
15 “ownership”;

16 (2) in paragraph (2), by inserting “, or with a
17 compensation arrangement (as described in sub-
18 section (a)(2)(B)),” after “investment interest (as
19 described in subsection (a)(2)(A))”;

20 (3) in paragraph (2), by inserting “interest or
21 who have such a compensation relationship with the
22 entity” before the period at the end;

23 (4) in the fourth sentence, by striking “covered
24 items and” and inserting “designated health”; and

25 (5) by striking the third and fifth sentences.

1 (b) RADIOLOGY SERVICES.—Section 1877(h)(6) (42
2 U.S.C. 1395nn(h)(6)), as amended by section 13562(a)(2)
3 of OBRA–1993, is amended—

4 (1) in subparagraph (D), by striking “or other
5 diagnostic services” and inserting “services, includ-
6 ing magnetic resonance imaging, computerized axial
7 tomography scans, and ultrasound services”; and

8 (2) in subparagraphs (E), (F), and (H), by in-
9 serting “and supplies” before the period at the end.

10 (c) REVISION OF EFFECTIVE DATE EXCEPTION PRO-
11 VISION.—Section 13562(b)(2) of OBRA–1993 is amended
12 by striking subparagraphs (A) and (B) and inserting the
13 following:

14 “(A) the second sentence of subsection
15 (a)(2), and subsections (b)(2)(B) and (d)(2), of
16 section 1877 of the Social Security Act (as in
17 effect on the day before the date of the enact-
18 ment of this Act) shall apply instead of the cor-
19 responding provisions in section 1877 (as
20 amended by this Act);

21 “(B) section 1877(b)(4) of the Social Se-
22 curity Act (as in effect on the day before the
23 date of the enactment of this Act) shall apply;

24 “(C) the requirements of section
25 1877(c)(2) of the Social Security Act (as

1 amended by this Act) shall not apply to any se-
2 curities of a corporation that meets the require-
3 ments of section 1877(c)(2) of the Social Secu-
4 rity Act (as in effect on the day before the date
5 of the enactment of this Act);

6 “(D) section 1877(e)(3) of the Social Secu-
7 rity Act (as amended by this Act) shall apply,
8 except that it shall not apply to any arrange-
9 ment that meets the requirements of subsection
10 (e)(2) or subsection (e)(3) of section 1877 of
11 the Social Security Act (as in effect on the day
12 before the date of the enactment of this Act);

13 “(E) the requirements of clauses (iv) and
14 (v) of section 1877(h)(4)(A), and of clause (i)
15 of section 1877(h)(4)(B), of the Social Security
16 Act (as amended by this Act) shall not apply;
17 and

18 “(F) section 1877(h)(4)(B) of the Social
19 Security Act (as in effect on the day before the
20 date of the enactment of this Act) shall apply
21 instead of section 1877(h)(4)(A)(ii) of such Act
22 (as amended by this Act).”.

23 (d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to referrals made on or after January 1, 1995.

(2) The amendment made by subsection (c) shall apply as if included in the enactment of OBRA-1993.

SEC. 153. DEFINITION OF FMGEMS EXAMINATION FOR PAYMENT OF DIRECT GRADUATE MEDICAL EDUCATION.

(a) **IN GENERAL.**—Section 1886(h)(5)(E) (42 U.S.C. 1395ww(h)(5)(E)) is amended by inserting “or any successor examination” after “Medical Sciences”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

SEC. 154. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare bene-

1 ficiaries, and for transmitting such information to the
 2 State in which such a beneficiary resides.

3 **SEC. 155. HOSPITAL AGREEMENTS WITH ORGAN PROCURE-**
 4 **MENT ORGANIZATIONS.**

5 (a) HOSPITAL AGREEMENTS.—

6 (1) IN GENERAL.—

7 (A) IDENTIFICATION OF ORGAN DO-
 8 NORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C.
 9 1320b-8(a)(1)(A)(iii)) is amended to read as
 10 follows:

11 “(iii) require that such hospital’s des-
 12 ignated organ procurement agency (as defined
 13 in paragraph (3)(B)) is notified of potential
 14 organ donors;”.

15 (B) AGREEMENTS WITH DESIGNATED
 16 ORGAN PROCUREMENT AGENCIES.—Section
 17 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is
 18 amended—

19 (i) by striking the period at the end of
 20 subparagraph (B) and inserting “; and”;
 21 and

22 (ii) by adding at the end the following
 23 new subparagraph:

24 “(C) the hospital or rural primary care hospital
 25 has an agreement (as defined in paragraph (3)(A))

1 only with such hospital's designated organ procure-
2 ment agency.”.

3 (C) WAIVER OF REQUIREMENTS RELATED
4 TO AGREEMENTS.—Section 1138(a) (42 U.S.C.
5 1320b-8(a)) is amended—

6 (i) by redesignating paragraph (2) as
7 paragraph (3); and

8 (ii) by inserting after paragraph (1)
9 the following new paragraph:

10 “(2)(A) The Secretary shall grant a waiver of the re-
11 quirements under subparagraphs (A)(iii) and (C) of para-
12 graph (1) to a hospital or rural primary care hospital de-
13 siring to enter into an agreement with an organ procure-
14 ment agency other than such hospital's designated organ
15 procurement agency if the Secretary determines that—

16 “(i) the waiver is expected to increase organ do-
17 nation; and

18 “(ii) the waiver will assure equitable treatment
19 of patients referred for transplants within the serv-
20 ice area served by such hospital's designated organ
21 procurement agency and within the service area
22 served by the organ procurement agency with which
23 the hospital seeks to enter into an agreement under
24 the waiver.

1 “(B) In making a determination under subparagraph
2 (A), the Secretary may consider factors that would in-
3 clude, but not be limited to—

4 “(i) cost effectiveness;

5 “(ii) improvements in quality;

6 “(iii) whether there has been any change in a
7 hospital’s designated organ procurement agency due
8 to a change made on or after December 28, 1992,
9 in the definitions for metropolitan statistical areas
10 (as established by the Office of Management and
11 Budget); and

12 “(iv) the length and continuity of a hospital’s
13 relationship with an organ procurement agency other
14 than the hospital’s designated organ procurement
15 agency;

16 except that nothing in this subparagraph shall be con-
17 strued to permit the Secretary to grant a waiver that does
18 not meet the requirements of subparagraph (A).

19 “(C) Any hospital or rural primary care hospital
20 seeking a waiver under subparagraph (A) shall submit an
21 application to the Secretary containing such information
22 as the Secretary determines appropriate.

23 “(D) The Secretary shall—

24 “(i) publish a public notice of any waiver appli-
25 cation received from a hospital or rural primary care

1 hospital under this paragraph within 30 days of re-
2 ceiving such application; and

3 “(ii) prior to making a final determination on
4 such application under subparagraph (A), offer in-
5 terested parties the opportunity to submit written
6 comments to the Secretary during the 60-day period
7 beginning on the date such notice is published.”.

8 (D) DEFINITIONS.—Section 1138(a)(3)
9 (42 U.S.C. 1320b–8(a)(3)), as redesignated by
10 subparagraph (C), is amended to read as fol-
11 lows:

12 “(3) For purposes of this subsection—

13 “(A) the term ‘agreement’ means an agreement
14 described in section 371(b)(3)(A) of the Public
15 Health Service Act;

16 “(B) the term ‘designated organ procurement
17 agency’ means, with respect to a hospital or rural
18 primary care hospital, the organ procurement agency
19 designated pursuant to subsection (b) for the service
20 area in which such hospital is located; and

21 “(C) the term ‘organ’ means a human kidney,
22 liver, heart, lung, pancreas, and any other human
23 organ or tissue specified by the Secretary for pur-
24 poses of this subsection.”.

1 (2) EXISTING AGREEMENTS.—Any hospital or
2 rural primary care hospital which has an agreement
3 (as defined in section 1138(a)(3)(A) of the Social
4 Security Act) with an organ procurement agency
5 other than such hospital's designated organ procure-
6 ment agency (as defined in section 1138(a)(3)(B) of
7 such Act) on the date of the enactment of this sec-
8 tion shall, if such hospital desires to continue such
9 agreement on and after the effective date of the
10 amendments made by paragraph (1), submit an ap-
11 plication to the Secretary for a waiver under section
12 1138(a)(2) of such Act not later than January 1,
13 1995, and such agreement may continue in effect
14 pending the Secretary's determination with respect
15 to such application.

16 (3) EFFECTIVE DATE.—The amendments made
17 by paragraph (1) shall apply to hospitals and rural
18 primary care hospitals participating in the programs
19 under titles XVIII and XIX of the Social Security
20 Act beginning January 1, 1995.

21 (b) STUDY ON HOSPITAL AGREEMENTS WITH ORGAN
22 PROCUREMENT AGENCIES.—

23 (1) IN GENERAL.—The Office of Technology
24 Assessment (referred to in this section as the
25 “OTA”) shall, pursuant to the approval of the Tech-

1 nology Assessment Board of the OTA, conduct a
2 study to determine the efficacy and fairness of re-
3 quiring a hospital to enter into an agreement under
4 section 371(b)(3)(A) of the Public Health Service
5 Act with the organ procurement agency designated
6 pursuant to section 1138(b) of the Social Security
7 Act for the service area in which such hospital is lo-
8 cated and the impact of such requirement on the ef-
9 ficacy and fairness of organ procurement and dis-
10 tribution.

11 (2) REPORT.—Not later than 2 years after the
12 date of the enactment of this Act, the OTA shall
13 complete the study required under paragraph (1)
14 and prepare and submit to the Committee on Fi-
15 nance and the Committee on Labor and Human Re-
16 sources of the Senate and the Committee on Ways
17 and Means and the Committee on Energy and Com-
18 merce of the House of Representatives a report con-
19 taining the findings of such study and the implica-
20 tions of such findings with respect to policies affect-
21 ing organ procurement and distribution.

22 **SEC. 156. PEER REVIEW ORGANIZATIONS.**

23 (a) **REPEAL OF PRO PRECERTIFICATION REQUIRE-**
24 **MENT FOR CERTAIN SURGICAL PROCEDURES.—**

1 (1) IN GENERAL.—Section 1164 (42 U.S.C.
2 1320c-13) is repealed.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 1154 (42 U.S.C. 1320c-3) is
5 amended—

6 (i) in subsection (a), by striking para-
7 graph (12), and

8 (ii) in subsection (d), by striking
9 “(and except as provided in section
10 1164)”.

11 (B) Section 1833 (42 U.S.C. 1395l) is
12 amended—

13 (i) in subsection (a)(1)(D)(i), by strik-
14 ing “, or for tests furnished in connection
15 with obtaining a second opinion required
16 under section 1164(c)(2) (or a third opin-
17 ion, if the second opinion was in disagree-
18 ment with the first opinion)”;

19 (ii) in subsection (a)(1), by striking
20 subparagraph (G);

21 (iii) in subsection (a)(2)(A), by strik-
22 ing “, to items and services (other than
23 clinical diagnostic laboratory tests) fur-
24 nished in connection with obtaining a sec-
25 ond opinion required under section

1 1164(c)(2) (or a third opinion, if the sec-
2 ond opinion was in disagreement with the
3 first opinion),”;

4 (iv) in subsection (a)(2)(D)(i)—

5 (I) by striking “basis,” and in-
6 serting “basis or”, and

7 (II) by striking “, or for tests
8 furnished in connection with obtaining
9 a second opinion required under sec-
10 tion 1164(c)(2) (or a third opinion, if
11 the second opinion was in disagree-
12 ment with the first opinion)”;

13 (v) in subsection (a)(3), by striking
14 “and for items and services furnished in
15 connection with obtaining a second opinion
16 required under section 1164(c)(2), or a
17 third opinion, if the second opinion was in
18 disagreement with the first opinion”; and

19 (vi) in the first sentence of subsection
20 (b), by striking “(4)” and all that follows
21 through “and (5)” and inserting “and
22 (4)”.

23 (C) Section 1834(g)(1)(B) (42 U.S.C.
24 1395m(g)(1)(B)) is amended by striking “and
25 for items and services furnished in connection

1 with obtaining a second opinion required under
 2 section 1164(c)(2), or a third opinion, if the
 3 second opinion was in disagreement with the
 4 first opinion”.

5 (D) Section 1862(a) (42 U.S.C. 1395y(a))
 6 is amended—

7 (i) by adding “or” at the end of para-
 8 graph (14),

9 (ii) by striking “; or” at the end of
 10 paragraph (15) and inserting a period, and

11 (iii) by striking paragraph (16).

12 (E) The third sentence of section
 13 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is
 14 amended by striking “, with respect to items
 15 and services furnished in connection with ob-
 16 taining a second opinion required under section
 17 1164(c)(2) (or a third opinion, if the second
 18 opinion was in disagreement with the first opin-
 19 ion),”.

20 (3) EFFECTIVE DATE.—The amendments made
 21 by this subsection shall apply to services provided on
 22 or after the date of the enactment of this Act.

23 (b) MISCELLANEOUS AND TECHNICAL CORREC-
 24 TIONS.—(1) The third sentence of section 1156(b)(1) (42

1 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter”
2 and inserting “whether”.

3 (2)(A) Section 1154(a)(9)(B) (42 U.S.C. 1320c-
4 3(a)(9)(B)) is amended to read as follows:

5 “(B) If the organization finds, after reasonable
6 notice to and opportunity for discussion with the
7 physician or practitioner concerned, that the physi-
8 cian or practitioner has furnished services in viola-
9 tion of section 1156(a) and the organization deter-
10 mines that the physician or practitioner should enter
11 into a corrective action plan under section
12 1156(b)(1), the organization shall notify the State
13 board or boards responsible for the licensing or dis-
14 ciplining of the physician or practitioner of its find-
15 ing and of any action taken as a result of the find-
16 ing.”.

17 (B) Subparagraph (D) of section 1160(b)(1) (42
18 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

19 “(D) to provide notice in accordance with
20 section 1154(a)(9)(B);”.

21 (3) Section 4205(d)(2)(B) of OBRA-1990 is amend-
22 ed by striking “amendments” and inserting “amend-
23 ment”.

24 (4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is
25 amended by striking “subpena” and inserting “subpoena”.

1 (5) Section 4205(e)(2) of OBRA-1990 is amended
2 by striking “amendments” and inserting “amendment”
3 and by striking “all”.

4 (6)(A) Except as provided in subparagraph (B), the
5 amendments made by this subsection shall take effect as
6 if included in the enactment of OBRA-1990.

7 (B) The amendments made by paragraph (2) (relat-
8 ing to the requirement on reporting of information to
9 State boards) shall take effect on the date of the enact-
10 ment of this Act.

11 **SEC. 157. HEALTH MAINTENANCE ORGANIZATIONS.**

12 (a) ADJUSTMENT IN MEDICARE CAPITATION PAY-
13 MENTS TO TAKE INTO ACCOUNT SECONDARY PAYER STA-
14 TUS.—

15 (1) IN GENERAL.—In defining the classes to be
16 used in determining the annual per capita rate of
17 payment under section 1876(a)(1)(B) of the Social
18 Security Act to an eligible organization with a risk-
19 sharing contract under such section (for months be-
20 ginning after June 1994), the Secretary of Health
21 and Human Services shall treat as a separate class
22 individuals entitled to benefits under title XVIII of
23 such Act with respect to whom there is a group
24 health plan that is a primary plan (within the mean-
25 ing of section 1862(b)(2)(A) of such Act).

1 (2) DEADLINE FOR ANNOUNCEMENT OF
2 RATES.—Not later than May 15, 1994, the Sec-
3 retary shall announce annual per capita rates of
4 payment for eligible organizations described in para-
5 graph (1) that take into account the separate treat-
6 ment of individuals with respect to whom there is a
7 group health plan that is a primary plan.

8 (b) REVISIONS IN THE PAYMENT METHODOLOGY
9 FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-
10 1990 is amended to read as follows:

11 “(b) REVISIONS IN THE PAYMENT METHODOLOGY
12 FOR RISK CONTRACTORS.—(1)(A) Not later than October
13 1, 1994, the Secretary of Health and Human Services (in
14 this subsection referred to as the ‘Secretary’) shall submit
15 a proposal to the Congress that provides for revisions to
16 the payment method to be applied in years beginning with
17 1996 for organizations with a risk-sharing contract under
18 section 1876(g) of the Social Security Act.

19 “(B) In proposing the revisions required under sub-
20 paragraph (A), the Secretary shall consider—

21 “(i) the difference in costs associated with med-
22 icare beneficiaries with differing health status and
23 demographic characteristics; and

1 “(ii) the effects of using alternative geographic
2 classifications on the determinations of costs associ-
3 ated with beneficiaries residing in different areas.

4 “(2) Not later than 3 months after the date of sub-
5 mittal of the proposal under paragraph (1), the Comptrol-
6 ler General shall review the proposal and shall report to
7 Congress on the appropriateness of the proposed modifica-
8 tions.”.

9 (c) MISCELLANEOUS AND TECHNICAL CORREC-
10 TIONS.—(1) Section 1876(a)(3) (42 U.S.C.
11 1395mm(a)(3)) is amended by striking “subsection
12 (c)(7)” and inserting “subsections (c)(2)(B)(ii) and
13 (c)(7)”.

14 (2) Section 4204(c)(3) of OBRA-1990 is amended
15 by striking “for 1991” and inserting “for years beginning
16 with 1991”.

17 (3) Section 4204(d)(2) of OBRA-1990 is amended
18 by striking “amendment” and inserting “amendments”.

19 (4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C.
20 1395mm(a)(1)(E)(ii)(I)) is amended by striking the
21 comma after “contributed to”.

22 (5) Section 4204(e)(2) of OBRA-1990 is amended
23 by striking “(which has a risk-sharing contract under sec-
24 tion 1876 of the Social Security Act)”.

1 (6) Section 4204(f)(4) of OBRA-1990 is amended by
2 striking “final”.

3 (7) Section 1862(b)(3)(C) (42 U.S.C.
4 1395y(b)(3)(C)) is amended—

5 (A) in the heading, by striking “PLAN” and in-
6 serting “PLAN OR A LARGE GROUP HEALTH PLAN”;

7 (B) by striking “group health plan” and insert-
8 ing “group health plan or a large group health
9 plan”;

10 (C) by striking “, unless such incentive is also
11 offered to all individuals who are eligible for cov-
12 erage under the plan”; and

13 (D) by striking “the first sentence of subsection
14 (a) and other than subsection (b)” and inserting
15 “subsections (a) and (b)”.

16 (8) The amendments made by this subsection shall
17 take effect as if included in the enactment of OBRA-1990.

18 **SEC. 158. HOME HEALTH AGENCIES.**

19 (a) **USE OF MOST CURRENT DATA IN DETERMINING**
20 **WAGE INDEX.—**

21 (1) **IN GENERAL.—**Section 1861(v)(1)(L)(iii)
22 (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by strik-
23 ing “as of such date to” and inserting “and deter-
24 mined using the survey of the most recent available
25 wages and wage-related costs of”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply with respect to cost re-
3 porting periods beginning on or after July 1, 1996.

4 (b) CLARIFICATION OF EXTENSION OF WAIVER OF
5 LIABILITY.—

6 (1) IN GENERAL.—The second sentence of sec-
7 tion 9205 of the Consolidated Omnibus Budget Rec-
8 onciliation Act of 1985 is amended by striking “No-
9 vember 1, 1990” and inserting “December 31,
10 1995”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall take effect as if included in
13 the enactment of OBRA–1990.

14 **SEC. 159. PERMANENT EXTENSION OF AUTHORITY TO CON-**
15 **TRACT WITH FISCAL INTERMEDIARIES AND**
16 **CARRIERS ON OTHER THAN A COST BASIS.**

17 (a) IN GENERAL.—Section 2326(a) of the Deficit Re-
18 duction Act of 1984, as amended by section 6215 of
19 OBRA–1989, is amended in the third sentence by striking
20 “during such period” and inserting “beginning with fiscal
21 year 1990 and any subsequent fiscal year”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply beginning with fiscal year 1994.

1 **SEC. 160. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

2 (a) **SURVEY AND CERTIFICATION REQUIREMENTS.**—

3 (1) Section 1864 (42 U.S.C. 1395aa) is amended—

4 (A) in subsection (e), by striking “title” and in-
5 serting “title (other than any fee relating to section
6 353 of the Public Health Service Act)”; and

7 (B) in the first sentence of subsection (a), by
8 striking “1861(s) or” and all that follows through
9 “Service Act,” and inserting “1861(s),”.

10 (2) An agreement made by the Secretary of Health
11 and Human Services with a State under section 1864(a)
12 of the Social Security Act may include an agreement that
13 the services of the State health agency or other appro-
14 priate State agency (or the appropriate local agencies) will
15 be utilized by the Secretary for the purpose of determining
16 whether a laboratory meets the requirements of section
17 353 of the Public Health Service Act.

18 (b) **HOME DIALYSIS DEMONSTRATION TECHNICAL**
19 **CORRECTIONS.**—Section 4202 of OBRA-1990 is
20 amended—

21 (1) in subsection (b)(1)(A), by striking “home
22 hemodialysis staff assistant” and inserting “quali-
23 fied home hemodialysis staff assistant (as described
24 in subsection (d))”;

1 (2) in subsection (b)(2)(B)(ii)(I), by striking
2 “(as adjusted to reflect differences in area wage
3 levels)”;

4 (3) in subsection (c)(1)(A), by striking
5 “skilled”; and

6 (4) in subsection (c)(1)(E), by striking “(b)(4)”
7 and inserting “(b)(2)”.

8 (c) TECHNICAL CORRECTION TO REVISIONS OF COV-
9 ERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.—Sec-
10 tion 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)), as amend-
11 ed by section 13565 of OBRA–1993, is amended—

12 (1) by redesignating clauses (ii) through (v) as
13 clauses (iii) through (vi); and

14 (2) by striking clause (i) and inserting the fol-
15 lowing:

16 “(i) before 1994, within 12 months after
17 the date of the transplant procedure,

18 “(ii) to an individual who receives a trans-
19 plant during 1994, within 487 days after the
20 date of the transplant procedure,”.

21 (d) OTHER MISCELLANEOUS AND TECHNICAL PRO-
22 VISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended
23 by redesignating the subsection (r) added by section
24 4206(b)(2) of OBRA–1990 as subsection (s).

1 (2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is
2 amended by striking “1833(r)” and inserting “1833(s)”.

3 (3) Section 4201(d)(2) of OBRA-1990 is amended
4 by striking “(B) by striking”, “(C) by striking”, and “(3)
5 by adding” and inserting “(i) by striking”, “(ii) by strik-
6 ing”, and “(B) by adding”, respectively.

7 (4) The section following section 4206 of OBRA-
8 1990 is amended by striking “SEC. 4027.” and inserting
9 “SEC. 4207.”, and in this subtitle is referred to as section
10 4207 of OBRA-1990.

11 (5)(A) Section 4207(a)(1) of OBRA-1990 is amend-
12 ed by adding closing quotation marks and a period after
13 “such review.”.

14 (B) Section 4207(a)(4) of OBRA-1990 is amended
15 by striking “this subsection” and inserting “paragraphs
16 (2) and (3)”.

17 (C) Section 4207(b)(1) of OBRA-1990 is amended
18 by striking “section 3(7)” and inserting “section
19 601(a)(1)”.

20 (6) Section 2355(b)(1)(B) of the Deficit Reduction
21 Act of 1984, as amended by section 4207(b)(4)(B)(ii) of
22 OBRA-1990, is amended—

23 (A) by striking “12907(c)(4)(A)” and inserting
24 “4207(b)(4)(B)(i)”, and

1 (B) by striking “feasibilitly” and inserting “fea-
2 sibility”.

3 (7) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is
4 amended by striking the period at the end and inserting
5 a semicolon.

6 (8) Subsections (c)(3) and (e) of section 2355 of the
7 Deficit Reduction Act of 1984, as amended by section
8 4207(b)(4)(B) of OBRA-1990, are each amended by
9 striking “12907(c)(4)(A)” each place it appears and in-
10 serting “4207(b)(4)(B)”.

11 (9) Section 4207(c)(2) of OBRA-1990 is amended
12 by striking “the Committee on Ways and Means” each
13 place it appears and inserting “the Committees on Ways
14 and Means and Energy and Commerce”.

15 (10) Section 4207(d) of OBRA-1990 is amended by
16 redesignating the second paragraph (3) (relating to effec-
17 tive date) as paragraph (4).

18 (11) Section 4207(i)(2) of OBRA-1990 is
19 amended—

20 (A) by striking the period at the end of clause
21 (iii) and inserting a semicolon, and

22 (B) in clause (v), by striking “residents” and
23 inserting “patients”.

1 (12) Section 4207(j) of OBRA-1990 is amended by
 2 striking “title” each place it appears and inserting “sub-
 3 title”.

4 **Subtitle D—Provisions Relating to** 5 **Medicare Supplemental Insur-** 6 **ance Policies**

7 **SEC. 171. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-** 8 **SURANCE POLICIES.**

9 (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL
 10 POLICIES.—

11 (1) Section 4351 of OBRA-1990 is amended by
 12 striking “(a) IN GENERAL.—”.

13 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is
 14 amended—

15 (A) in paragraph (1)(A)—

16 (i) by striking “promulgates” and in-
 17 serting “changes the revised NAIC Model
 18 Regulation (described in subsection (m)) to
 19 incorporate”,

20 (ii) by striking “(such limitations, lan-
 21 guage, definitions, format, and standards
 22 referred to collectively in this subsection as
 23 ‘NAIC standards’),”, and

24 (iii) by striking “included a reference
 25 to the NAIC standards” and inserting

1 “were a reference to the revised NAIC
2 Model Regulation as changed under this
3 subparagraph (such changed regulation re-
4 ferred to in this section as the ‘1991 NAIC
5 Model Regulation’);

6 (B) in paragraph (1)(B)—

7 (i) by striking “promulgate NAIC
8 standards” and inserting “make the
9 changes in the revised NAIC Model Regu-
10 lation”,

11 (ii) by striking “limitations, language,
12 definitions, format, and standards de-
13 scribed in clauses (i) through (iv) of such
14 subparagraph (in this subsection referred
15 to collectively as ‘Federal standards’)” and
16 inserting “a regulation”, and

17 (iii) by striking “included a reference
18 to the Federal standards” and inserting
19 “were a reference to the revised NAIC
20 Model Regulation as changed by the Sec-
21 retary under this subparagraph (such
22 changed regulation referred to in this sec-
23 tion as the ‘1991 Federal Regulation’)”;

24 (C) in paragraph (1)(C)(i), by striking
25 “NAIC standards or the Federal standards”

1 and inserting “1991 NAIC Model Regulation or
2 1991 Federal Regulation”;

3 (D) in paragraphs (1)(C)(ii)(I), (1)(E),
4 (2), and (9)(B), by striking “NAIC or Federal
5 standards” and inserting “1991 NAIC Model
6 Regulation or 1991 Federal Regulation”;

7 (E) in paragraph (2)(C), by striking
8 “(5)(B)” and inserting “(4)(B)”;

9 (F) in paragraph (4)(A)(i), by inserting
10 “or paragraph (6)” after “(B)”;

11 (G) in paragraph (4), by striking “applica-
12 ble standards” each place it appears and insert-
13 ing “applicable 1991 NAIC Model Regulation
14 or 1991 Federal Regulation”;

15 (H) in paragraph (6), by striking “in re-
16 gard to the limitation of benefits described in
17 paragraph (4)” and inserting “described in
18 clauses (i) through (iii) of paragraph (1)(A)”;

19 (I) in paragraph (7), by striking “policy-
20 holder” and inserting “policyholders”;

21 (J) in paragraph (8), by striking “after the
22 effective date of the NAIC or Federal standards
23 with respect to the policy, in violation of the
24 previous requirements of this subsection” and
25 inserting “on and after the effective date speci-

1 fied in paragraph (1)(C) (but subject to para-
 2 graph (10)), in violation of the applicable 1991
 3 NAIC Model Regulation or 1991 Federal Regu-
 4 lation insofar as such regulation relates to the
 5 requirements of subsection (o) or (q) or clause
 6 (i), (ii), or (iii) of paragraph (1)(A)”;

7 (K) in paragraph (9), by adding at the end
 8 the following new subparagraph:

9 “(D) Subject to paragraph (10), this paragraph shall
 10 apply to sales of policies occurring on or after the effective
 11 date specified in paragraph (1)(C).”; and

12 (L) in paragraph (10), by striking “this
 13 subsection” and inserting “paragraph
 14 (1)(A)(i)”.

15 (b) GUARANTEED RENEWABILITY.—Section 1882(q)
 16 (42 U.S.C. 1395ss(q)) is amended—

17 (1) in paragraph (2), by striking “paragraph
 18 (2)” and inserting “paragraph (4)”, and

19 (2) in paragraph (4), by striking “the succeed-
 20 ing issuer” and inserting “issuer of the replacement
 21 policy”.

22 (c) ENFORCEMENT OF STANDARDS.—

23 (1) Section 1882(a)(2) (42 U.S.C.
 24 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking “NAIC standards or the Federal standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”, and

(B) by striking “after the effective date of the NAIC or Federal standards with respect to the policy” and inserting “on and after the effective date specified in subsection (p)(1)(C)”.

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking “The report” and inserting “Each report”,

(B) by inserting “and requirements” after “standards”,

(C) by striking “and” after “compliance,”, and

(D) by striking the comma after “Commissioners”.

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking “Panel” and inserting “Secretary”.

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking “the the Secretary” and inserting “the Secretary”.

(d) PREVENTING DUPLICATION.—

1 (1) Section 1882(d)(3)(A) (42 U.S.C.
2 1395ss(d)(3)(A)) is amended—

3 (A) by amending the first sentence to read
4 as follows:

5 “(i) It is unlawful for a person to sell or issue to an
6 individual entitled to benefits under part A or enrolled
7 under part B of this title—

8 “(I) a health insurance policy with knowledge
9 that the policy duplicates health benefits to which
10 the individual is otherwise entitled under this title or
11 title XIX,

12 “(II) a medicare supplemental policy with
13 knowledge that the individual is entitled to benefits
14 under another medicare supplemental policy, or

15 “(III) a health insurance policy (other than a
16 medicare supplemental policy) with knowledge that
17 the policy duplicates health benefits to which the in-
18 dividual is otherwise entitled, other than benefits to
19 which the individual is entitled under a requirement
20 of State or Federal law.”;

21 (B) by designating the second sentence as
22 clause (ii) and, in such clause, by striking “the
23 previous sentence” and inserting “clause (i)”;

24 (C) by designating the third sentence as
25 clause (iii) and, in such clause—

(i) by striking “the previous sentence”
and inserting “clause (i) with respect to
the sale of a medicare supplemental pol-
icy”, and

(ii) by striking “and the statement”
and all that follows up to the period at the
end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C.
1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking “65 years
of age or older”,

(B) in clause (iii)(I), by striking “another
medicare” and inserting “a medicare”,

(C) in clause (iii)(I), by striking “such a
policy” and inserting “a medicare supplemental
policy”,

(D) in clause (iii)(II), by striking “another
policy” and inserting “a medicare supplemental
policy”, and

(E) by amending subclause (III) of clause
(iii) to read as follows:

“(III) If the statement required by clause (i) is ob-
tained and indicates that the individual is entitled to any
medical assistance under title XIX, the sale of the policy

1 is not in violation of clause (i) (insofar as such clause re-
 2 lates to such medical assistance), if (aa) a State medicaid
 3 plan under such title pays the premiums for the policy,
 4 (bb) in the case of a qualified medicare beneficiary de-
 5 scribed in section 1905(p)(1), the policy provides for cov-
 6 erage of outpatient prescription drugs, or (cc) the only
 7 medical assistance to which the individual is entitled under
 8 the State plan is medicare cost sharing described in sec-
 9 tion 1905(p)(3)(A)(ii).”.

10 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.
 11 1395ss(d)(3)(C)) is amended—

12 (i) by striking “the selling” and inserting
 13 “(i) the sale or issuance”, and

14 (ii) by inserting before the period at the
 15 end the following: “, (ii) the sale or issuance of
 16 a policy or plan described in subparagraph
 17 (A)(i)(I) (other than a medicare supplemental
 18 policy to an individual entitled to any medical
 19 assistance under title XIX) under which all the
 20 benefits are fully payable directly to or on be-
 21 half of the individual without regard to other
 22 health benefit coverage of the individual but
 23 only if (for policies sold or issued more than 60
 24 days after the date the statements are pub-
 25 lished or promulgated under subparagraph (D))

1 there is disclosed in a prominent manner as
2 part of (or together with) the application the
3 applicable statement (specified under subpara-
4 graph (D)) of the extent to which benefits pay-
5 able under the policy or plan duplicate benefits
6 under this title, or (iii) the sale or issuance of
7 a policy or plan described in subparagraph
8 (A)(i)(III) under which all the benefits are fully
9 payable directly to or on behalf of the individual
10 without regard to other health benefit coverage
11 of the individual”.

12 (B) Section 1882(d)(3) (42 U.S.C.
13 1395ss(d)(3)) is amended by adding at the end the
14 following:

15 “(D)(i) If—

16 “(I) within the 90-day period beginning on the
17 date of the enactment of this subparagraph, the Na-
18 tional Association of Insurance Commissioners devel-
19 ops (after consultation with consumer and insurance
20 industry representatives) and submits to the Sec-
21 retary a statement for each of the types of health in-
22 surance policies (other than medicare supplemental
23 policies and including, but not limited to, as sepa-
24 rate types of policies, policies paying directly to the
25 beneficiary fixed, cash benefits, and policies that

1 limit benefit payments to specific diseases) which are
2 sold or issued to persons entitled to health benefits
3 under this title, of the extent to which benefits pay-
4 able under the policy or plan duplicate benefits
5 under this title, and

6 “(II) the Secretary approves all the statements
7 submitted as meeting the requirements of subclause
8 (I),

9 each such statement shall be (for purposes of subpara-
10 graph (C)) the statement specified under this subpara-
11 graph for the type of policy involved. The Secretary shall
12 review and approve (or disapprove) all the statements sub-
13 mitted under subclause (I) within 30 days after the date
14 of their submittal. Upon approval of such statements, the
15 Secretary shall publish such statements.

16 “(ii) If the Secretary does not approve the statements
17 under clause (i) or the statements are not submitted with-
18 in the 90-day period specified in such clause, the Secretary
19 shall promulgate (after consultation with consumer and
20 insurance industry representatives and not later than 90
21 days after the date of disapproval or the end of such 90-
22 day period (as the case may be)) a statement for each
23 of the types of health insurance policies (other than medi-
24 care supplemental policies and including, but not limited
25 to, as separate types of policies, policies paying directly

1 to the beneficiary fixed, cash benefits, and policies that
 2 limit benefit payments to specific diseases) which are sold
 3 or issued to persons entitled to health benefits under this
 4 title, of the extent to which benefits payable under the pol-
 5 icy or plan duplicate benefits under this title, and each
 6 such statement shall be (for purposes of subparagraph
 7 (C)) the statement specified under this subparagraph for
 8 the type of policy involved.”.

9 (C) The requirement of a disclosure under sec-
 10 tion 1882(d)(3)(C)(ii) of the Social Security Act
 11 shall not apply to an application made for a policy
 12 or plan before 60 days after the date the Secretary
 13 of Health and Human Services publishes or promul-
 14 gates all the statements under section
 15 1882(d)(3)(D) of such Act.

16 (4) Subparagraphs (A) and (B) of section
 17 1882(q)(5) are amended by striking “of the Social
 18 Security Act”.

19 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

20 (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is
 21 amended—

22 (A) in paragraph (1), by striking “or sold”
 23 and inserting “or renewed (or otherwise provide
 24 coverage after the date described in subsection
 25 (p)(1)(C))”;

1 (B) in paragraph (1)(A), by inserting “for
2 periods after the effective date of these provi-
3 sions” after “the policy can be expected”;

4 (C) in paragraph (1)(A), by striking
5 “Commissioners,” and inserting “Commis-
6 sioners)”;

7 (D) in paragraph (1)(B), by inserting be-
8 fore the period at the end the following: “,
9 treating policies of the same type as a single
10 policy for each standard package”;

11 (E) by adding at the end of paragraph (1)
12 the following: “For the purpose of calculating
13 the refund or credit required under paragraph
14 (1)(B) for a policy issued before the date speci-
15 fied in subsection (p)(1)(C), the refund or cred-
16 it calculation shall be based on the aggregate
17 benefits provided and premiums collected under
18 all such policies issued by an insurer in a State
19 (separated as to individual and group policies)
20 and shall be based only on aggregate benefits
21 provided and premiums collected under such
22 policies after the date specified in section
23 171(m)(4) of the Social Security Act Amend-
24 ments of 1993.”;

1 (F) in the first sentence of paragraph
2 (2)(A), by striking “by policy number” and in-
3 serting “by standard package”;

4 (G) by striking the second sentence of
5 paragraph (2)(A) and inserting the following:
6 “Paragraph (1)(B) shall not apply to a policy
7 until 12 months following issue.”;

8 (H) in the last sentence of paragraph
9 (2)(A), by striking “in order” and all that fol-
10 lows through “are effective”;

11 (I) by adding at the end of paragraph
12 (2)(A), the following new sentence: “In the case
13 of a policy issued before the date specified in
14 subsection (p)(1)(C), paragraph (1)(B) shall
15 not apply until 1 year after the date specified
16 in section 171(m)(4) of the Social Security Act
17 Amendments of 1993.”;

18 (J) in paragraph (2), by striking “policy
19 year” each place it appears and inserting “cal-
20 endar year”;

21 (K) in paragraph (4), by striking “Feb-
22 ruary”, “disallowance”, “loss-ratios” each place
23 it appears, and “loss-ratio” and inserting “Oc-
24 tober”, “disallowance”, “loss ratios”, and “loss
25 ratio”, respectively;

1 (L) in paragraph (6)(A), by striking “is-
 2 sues a policy in violation of the loss ratio re-
 3 quirements of this subsection” and “such viola-
 4 tion” and inserting “fails to provide refunds or
 5 credits as required in paragraph (1)(B)” and
 6 “policy issued for which such failure occurred”,
 7 respectively; and

8 (M) in paragraph (6)(B), by striking “to
 9 policyholders” and inserting “to the policy-
 10 holder or, in the case of a group policy, to the
 11 certificate holder”.

12 (2) Section 1882(b)(1) (42 U.S.C.
 13 1395ss(b)(1)) is amended, in the matter after sub-
 14 paragraph (H), by striking “subsection (F)” and in-
 15 serting “subparagraph (F)”.

16 (3) Section 4355(d) of OBRA-1990 is amended
 17 by striking “sold or issued” and all that follows and
 18 inserting “issued or renewed (or otherwise providing
 19 coverage after the date described in section
 20 1882(p)(1)(C) of the Social Security Act) on or after
 21 the date specified in section 1882(p)(1)(C) of the
 22 Social Security Act.”.

23 (f) TREATMENT OF HMO’S.—

24 (1) Section 1882(g)(1) (42 U.S.C.
 25 1395ss(g)(1)) is amended by striking “a health

1 maintenance organization or other direct service or-
2 ganization” and all that follows through “1833” and
3 inserting “an eligible organization (as defined in sec-
4 tion 1876(b)) if the policy or plan provides benefits
5 pursuant to a contract under section 1876 or an ap-
6 proved demonstration project described in section
7 603(c) of the Social Security Amendments of 1983,
8 section 2355 of the Deficit Reduction Act of 1984,
9 or section 9412(b) of the Omnibus Budget Reconcili-
10 ation Act of 1986, or, during the period beginning
11 on the date specified in subsection (p)(1)(C) and
12 ending on December 31, 1994, a policy or plan of
13 an organization if the policy or plan provides bene-
14 fits pursuant to an agreement under section
15 1833(a)(1)(A)”.

16 (2) Section 4356(b) of OBRA-1990 is amended
17 by striking “on the date of the enactment of this
18 Act” and inserting “on the date specified in section
19 1882(p)(1)(C) of the Social Security Act”.

20 (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-
21 tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—

22 (1) in paragraph (2)(A), by striking “for which
23 an application is submitted” and inserting “in the
24 case of an individual for whom an application is sub-
25 mitted prior to or”,

1 (2) in paragraph (2)(A), by striking “in which
2 the individual (who is 65 years of age or older) first
3 is enrolled for benefits under part B” and inserting
4 “as of the first day on which the individual is 65
5 years of age or older and is enrolled for benefits
6 under part B”, and

7 (3) in paragraph (2)(B), by striking “before it”
8 and inserting “before the policy”.

9 (h) MEDICARE SELECT POLICIES.—

10 (1) Section 1882(t) (42 U.S.C. 1395ss(t)) is
11 amended—

12 (A) in paragraph (1), by inserting “medi-
13 care supplemental” after “If a”,

14 (B) in paragraph (1), by striking “NAIC
15 Model Standards” and inserting “1991 NAIC
16 Model Regulation or 1991 Federal Regulation”,

17 (C) in paragraph (1)(A), by inserting “or
18 agreements” after “contracts”,

19 (D) in subparagraphs (E)(i) and (F) of
20 paragraph (1), by striking “NAIC standards”
21 and inserting “standards in the 1991 NAIC
22 Model Regulation or 1991 Federal Regulation”,
23 and

(E) in paragraph (2), by inserting “the issuer” before “is subject to a civil money penalty”.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting “that is” after “(or”, and

(B) by striking “1882(t)” and inserting “1882(t)(3)”.

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA-1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking “Act” and inserting “Act)”;

(2) in subsection (b)(2)(D), by striking “services” and inserting “counseling”;

(3) in subsection (b)(2)(I), by striking “assistance” and inserting “referrals”;

(4) in subsection (c)(1), by striking “and that such activities will continue to be maintained at such level”;

(5) in subsection (d)(3), by striking “to the rural areas” and inserting “eligible individuals residing in rural areas”;

(6) in subsection (e)—

(A) by striking “subsection (c) or (d)” and inserting “this section”,

1 (B) by striking “and annually thereafter,
2 issue an annual report” and inserting “and an-
3 nually thereafter during the period of the grant,
4 issue a report”, and

5 (C) in paragraph (1), by striking “State-
6 wide”;

7 (7) in subsection (f), by striking paragraph (2)
8 and by redesignating paragraphs (3) through (5) as
9 paragraphs (2) through (4), respectively; and

10 (8) in the second subsection (f) (relating to au-
11 thorization of appropriations for grants)—

12 (A) by striking “and 1993” and inserting
13 “1993, 1994, 1995, and 1996”; and

14 (B) by redesignating such subsection as
15 subsection (g).

16 (j) TELEPHONE INFORMATION SYSTEM.—

17 (1) Section 1804 (42 U.S.C. 1395b-2) is
18 amended—

19 (A) by adding at the end of the heading
20 the following: “; MEDICARE AND MEDIGAP IN-
21 FORMATION”,

22 (B) by inserting “(a)” after “1804.”, and

23 (C) by adding at the end the following new
24 subsection:

1 “(b) The Secretary shall provide information via a
2 toll-free telephone number on the programs under this
3 title.”.

4 (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
5 amended by adding at the end the following new
6 paragraph:

7 “(3) The Secretary shall provide information via a
8 toll-free telephone number on medicare supplemental poli-
9 cies (including the relationship of State programs under
10 title XIX to such policies).”.

11 (3) Section 1889 is repealed.

12 (k) MAILING OF POLICIES.—Section 1882(d)(4) (42
13 U.S.C. 1395ss(d)(4)) is amended—

14 (1) in subparagraph (D), by striking “, if such
15 policy” and all that follows up to the period at the
16 end, and

17 (2) by adding at the end the following new sub-
18 paragraph:

19 “(E) Subparagraph (A) shall not apply in the case
20 of an issuer who mails or causes to be mailed a policy,
21 certificate, or other matter solely to comply with the re-
22 quirements of subsection (q).”.

23 (l) EFFECTIVE DATE.—The amendments made by
24 this section shall be effective as if included in the enact-
25 ment of OBRA-1990; except that—

1 (1) the amendments made by subsection (d)(1)
2 shall take effect on the date of the enactment of this
3 Act, but no penalty shall be imposed under section
4 1882(d)(3)(A) of the Social Security Act (for an ac-
5 tion occurring after the effective date of the amend-
6 ments made by section 4354 of OBRA-1990 and be-
7 fore the date of the enactment of this Act) with re-
8 spect to the sale or issuance of a policy which is not
9 unlawful under section 1882(d)(3)(A)(i)(II) of the
10 Social Security Act (as amended by this section);

11 (2) the amendments made by subsection
12 (d)(2)(A) and by subparagraphs (A), (B), and (E)
13 of subsection (e)(1) shall be effective on the date
14 specified in subsection (m)(4); and

15 (3) the amendment made by subsection (g)(2)
16 shall take effect on July 1, 1994, and shall apply to
17 individuals who attain 65 years of age or older on
18 or after the effective date of section 1882(s)(2) of
19 the Social Security Act (and, in the case of individ-
20 uals who attained 65 years of age after such effec-
21 tive date and before July 1, 1994, and who were not
22 covered under such section before July 1, 1994, the
23 6-month period specified in that section shall begin
24 July 1, 1994).

25 (m) TRANSITION PROVISIONS.—

1 (1) IN GENERAL.—If the Secretary of Health
2 and Human Services identifies a State as requiring
3 a change to its statutes or regulations to conform its
4 regulatory program to the changes made by this sec-
5 tion, the State regulatory program shall not be con-
6 sidered to be out of compliance with the require-
7 ments of section 1882 of the Social Security Act due
8 solely to failure to make such change until the date
9 specified in paragraph (4).

10 (2) NAIC STANDARDS.—If, within 6 months
11 after the date of the enactment of this Act, the Na-
12 tional Association of Insurance Commissioners (in
13 this subsection referred to as the “NAIC”) modifies
14 its 1991 NAIC Model Regulation (adopted in July
15 1991) to conform to the amendments made by this
16 section and to delete from section 15C the exception
17 which begins with “unless”, such revised regulation
18 incorporating the modifications shall be considered
19 to be the 1991 Regulation for the purposes of sec-
20 tion 1882 of the Social Security Act.

21 (3) SECRETARY STANDARDS.—If the NAIC
22 does not make the modifications described in para-
23 graph (2) within the period specified in such para-
24 graph, the Secretary of Health and Human Services
25 shall make the modifications described in such para-

1 graph and such revised regulation incorporating the
2 modifications shall be considered to be the 1991
3 Regulation for the purposes of section 1882 of the
4 Social Security Act.

5 (4) DATE SPECIFIED.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (B), the date specified in this paragraph
8 for a State is the earlier of—

9 (i) the date the State changes its stat-
10 utes or regulations to conform its regu-
11 latory program to the changes made by
12 this section, or

13 (ii) 1 year after the date the NAIC or
14 the Secretary first makes the modifications
15 under paragraph (2) or (3), respectively.

16 (B) ADDITIONAL LEGISLATIVE ACTION RE-
17 QUIRED.—In the case of a State which the Sec-
18 retary identifies as—

19 (i) requiring State legislation (other
20 than legislation appropriating funds) to
21 conform its regulatory program to the
22 changes made in this section, but

23 (ii) having a legislature which is not
24 scheduled to meet in 1994 in a legislative

session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—MEDICAID PROVISIONS

Subtitle A—Substantive Provisions

PART I—MANAGED CARE PROVISIONS

SEC. 201. MEDICAID MANAGED CARE ANTIFRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking “and” at the end of clause (x),

1 (ii) by striking the period at the end
2 of clause (xi) and inserting “; and”, and
3 (iii) by adding at the end the follow-
4 ing new clause:

5 “(xii) the entity complies with the requirements
6 of paragraph (3) (relating to certain protections
7 against fraud and abuse).”;

8 (B) in paragraph (2)(B), as amended by
9 section 249, by striking “clause (ix)” and in-
10 serting “clauses (ix) and (xii)”; and

11 (C) by inserting after paragraph (2) the
12 following new paragraph:

13 “(3)(A)(i) An entity with a contract under this sub-
14 section may not have a person described in clause (iv) as
15 a director, officer, partner, or person with beneficial own-
16 ership of more than 5 percent of the entity’s equity.

17 “(ii) An entity with a contract under this subsection
18 may not have an employment, consulting, or other agree-
19 ment with a person described in clause (iv) for the provi-
20 sion of goods and services that are significant and material
21 to the entity’s obligations under its contract with the State
22 described in paragraph (2)(A)(iii).

23 “(iii) If an entity with a contract under this sub-
24 section is not in compliance with clause (i) or (ii)—

1 “(I) a State may continue an existing agree-
2 ment with the entity unless the Secretary (in con-
3 sultation with the Inspector General of the Depart-
4 ment of Health and Human Services) directs other-
5 wise; and

6 “(II) a State may not renew or otherwise ex-
7 tend the duration of an existing agreement with the
8 entity unless the State provides a written statement
9 to the Secretary describing compelling reasons that
10 exist for renewing or extending the agreement and
11 the Secretary (in consultation with the Inspector
12 General of the Department of Health and Human
13 Services) approves such statement.

14 “(iv) A person described in this clause is a person
15 that—

16 “(I) is debarred or suspended by the Federal
17 Government, pursuant to the Federal acquisition
18 regulation, from Government contracting and sub-
19 contracting, or

20 “(II) is an affiliate (within the meaning of the
21 Federal acquisition regulation) of a person described
22 in subclause (I).”.

23 (2) EFFECTIVE DATE.—The amendments made
24 by paragraph (1) shall apply to agreements between
25 a State and an entity under section 1903(m) of the

1 Social Security Act entered into or renewed on or
2 after January 1, 1994, without regard to whether
3 regulations to carry out such amendments are pro-
4 mulgated by such date.

5 (b) REQUIREMENT FOR STATE CONFLICT-OF-INTER-
6 EST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

7 (1) IN GENERAL.—Section 1903(m)(2)(A) (42
8 U.S.C. 1396b(m)(2)(A)), as amended by subsection
9 (a)(1)(A), is amended—

10 (A) by striking “and” at the end of clause
11 (xi),

12 (B) by striking the period at the end of
13 clause (xii) and inserting “; and”, and

14 (C) by adding at the end the following new
15 clause:

16 “(xiii) the State certifies to the Secretary and
17 the Secretary finds that the State has in effect con-
18 flict-of-interest safeguards with respect to officers
19 and employees of the State who have responsibilities
20 with respect to contracts with organizations under
21 this subsection that are at least as effective as the
22 Federal conflicts-of-interest safeguards provided
23 under section 27 of the Office of Federal Procure-
24 ment Policy Act that apply with respect to Federal

1 procurement officials who have comparable respon-
2 sibilities with respect to such contracts.”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by paragraph (1) shall apply as of July 1, 1994,
5 without regard to whether regulations to carry out
6 such amendments are promulgated by such date.

7 (c) REQUIRING DISCLOSURE OF FINANCIAL INFOR-
8 MATION.—

9 (1) IN GENERAL.—Section 1903(m)(3), as in-
10 serted by subsection (a)(1)(C), is amended by add-
11 ing at the end the following new subparagraph:

12 “(B) The contract between the State and an entity
13 referred to in paragraph (2)(A)(iii) shall provide that—

14 “(i) the entity agrees to report to the State
15 such financial information as the Secretary or the
16 State may require to demonstrate that the entity has
17 a fiscally sound operation; and

18 “(ii) the entity agrees to make available to its
19 enrollees upon reasonable request—

20 “(I) the information reported under clause
21 (i),

22 “(II) the information required to be dis-
23 closed under sections 1124 and 1126, and

24 “(III) a description of each transaction,
25 described in subparagraphs (A) through (C) of

1 section 1318(a)(3) of the Public Health Service
2 Act, between the entity and a party in interest
3 (as defined in section 1318(b) of such Act).”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1) shall apply to contract years begin-
6 ning on or after April 1, 1994, without regard to
7 whether regulations to carry out such amendments
8 are promulgated by such date, with respect to infor-
9 mation reported or required to be disclosed, or
10 transactions occurring, before, on, or after such
11 date.

12 (d) PROHIBITING MARKETING FRAUD.—

13 (1) IN GENERAL.—Section 1903(m)(3), as in-
14 serted by subsection (a)(1) and as amended by sub-
15 section (c)(1), is amended by adding at the end the
16 following new subparagraph:

17 “(C) The contract between the State and an entity
18 referred to in paragraph (2)(A)(iii) shall provide that the
19 entity agrees to comply with such procedures and condi-
20 tions as the Secretary prescribes in order to ensure that,
21 before an individual is enrolled or reenrolled with the en-
22 tity, the individual is provided accurate and sufficient in-
23 formation to make an informed decision whether or not
24 to enroll or reenroll.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after April 1, 1994.

(e) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting “, which meets such standards as the Secretary shall prescribe,” after “satisfactory to the State”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1995.

(f) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsections (c)(1) and (d)(1) is amended by adding at the end the following new subparagraph:

“(D) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

1 “(i) a financial statement of the entity’s net
2 earnings under the contract during the contract
3 year, which statement has been audited using audit-
4 ing standards established by the Secretary in con-
5 sultation with the States; and

6 “(ii) a description of any benefits that are in
7 addition to the benefits required to be provided
8 under the contract that were provided during the
9 contract year to members enrolled with the entity
10 and entitled to medical assistance under the plan.”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall apply to contract years begin-
13 ning on or after January 1, 1994.

14 **SEC. 202. EXTENSION OF MEDICAID WAIVER FOR TEN-**
15 **NESSEE PRIMARY CARE NETWORK.**

16 Section 6411(f) of OBRA–1989, as amended by sec-
17 tion 1 of Public Law 102–317, is amended by striking
18 “January 31, 1994” and inserting “December 31, 1995”.

19 **SEC. 203. WAIVER OF APPLICATION OF MEDICAID ENROLL-**
20 **MENT MIX REQUIREMENT TO DISTRICT OF**
21 **COLUMBIA CHARTERED HEALTH PLAN, INC.**

22 (a) IN GENERAL.—The Secretary of Health and
23 Human Services shall waive the application of the require-
24 ment described in section 1903(m)(2)(A)(ii) of the Social
25 Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity

1 known as the District of Columbia Chartered Health Plan,
 2 Inc., for the period described in subsection (b), if the Sec-
 3 retary determines that the entity is making continuous ef-
 4 forts and progress toward achieving compliance with such
 5 requirement.

6 (b) PERIOD OF APPLICABILITY.—The period referred
 7 to in subsection (a) is the period that begins on October
 8 1, 1992, and ends on December 31, 1995.

9 **SEC. 204. WAIVER OF APPLICATION OF MEDICAID ENROLL-**
 10 **MENT MIX REQUIREMENT TO MANAGED**
 11 **HEALTH SERVICES INSURANCE CORPORA-**
 12 **TION OF MILWAUKEE, WISCONSIN.**

13 The Secretary of Health and Human Services shall
 14 waive the application of the requirement described in sec-
 15 tion 1903(m)(2)(A)(ii) of the Social Security Act (42
 16 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the
 17 Managed Health Services Insurance Corporation of Mil-
 18 waukee, Wisconsin until December 31, 1995, if the Sec-
 19 retary determines that the entity is making continuous ef-
 20 forts and progress toward achieving compliance with such
 21 requirement.

22 **SEC. 205. EXTENSION OF MINNESOTA PREPAID MEDICAID**
 23 **DEMONSTRATION PROJECT.**

24 (a) IN GENERAL.—Section 507 of the Family Sup-
 25 port Act of 1988 (Public Law 100–485), as amended by

1 section 6411(j) of OBRA-1989 and by section 4733 of
2 OBRA-1990, is amended by striking "1996" and insert-
3 ing "1998".

4 (b) AUTHORITY TO IMPOSE PREMIUM.—

5 (1) IN GENERAL.—Notwithstanding section
6 1916 of the Social Security Act and subject to para-
7 graph (2), the State of Minnesota may impose a pre-
8 mium on individuals receiving medical assistance
9 under the Minnesota Prepaid Demonstration Project
10 operated under a waiver granted by the Secretary of
11 Health and Human Services under section 1115(a)
12 of the Social Security Act and other individuals eligi-
13 ble under the State's plan for medical assistance
14 under title XIX of such Act.

15 (2) LIMITATION ON AMOUNT OF PREMIUM.—In
16 no case may the amount of any premium imposed on
17 an individual receiving medical assistance under the
18 State plan or under the Demonstration Project de-
19 scribed in paragraph (1) exceed 10 percent of the
20 amount by which the family income (less expenses
21 for the care of a dependent child) of the individual
22 exceeds 110 percent of the income official poverty
23 line (as defined by the Office of Management and
24 Budget, and revised annually in accordance with sec-
25 tion 673(2) of the Omnibus Budget Reconciliation

Act of 1981) applicable to a family of the size involved.

PART II—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

SEC. 211. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking “, with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 212. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST-EFFECTIVE.

(a) IN GENERAL.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

“(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will

1 seek reimbursement for such assistance to the extent
2 of such legal liability, unless—

3 “(i) the amount of reimbursement the
4 State can reasonably expect to recover for medi-
5 cal assistance furnished to an individual does
6 not exceed the costs of such recovery, or

7 “(ii) with respect to case management
8 services (as defined in section 1915(g)(2)), the
9 State demonstrates to the satisfaction of the
10 Secretary that it is not cost-effective in the ag-
11 gregate to seek such recovery with respect to
12 such services furnished to individuals covered
13 under the State plan, using methods specified
14 by the Secretary which may include a dem-
15 onstration that such services are not generally
16 covered by health insurers in the State;”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall become effective on January 1, 1994.

19 **SEC. 213. STATE EXPENDITURES FOR MEDICAL ASSIST-**
20 **ANCE WITH RESPECT TO HOME AND COMMU-**
21 **NITY-BASED SERVICES PROVIDED UNDER A**
22 **WAIVER.**

23 (a) IN GENERAL.—Section 1915(d)(5)(B) (42 U.S.C.
24 1396n(d)(5)(B)) is amended—

(1) in clause (i), by striking “times the number of years” and inserting “compounded annually for years”;

(2) in clause (ii), by striking “times the number of years” and inserting “compounded annually for years”; and

(3) in clause (iv), by striking “December 22, 1987” and inserting “the date of the enactment of the Omnibus Budget Reconciliation Act of 1986”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of OBRA-1987.

PART III—OTHER PROVISIONS

SEC. 221. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.

(a) QUALIFIED PROVIDER.—Section 1920(b)(2) (42 U.S.C. 1396r-1(b)(2)) is amended to read as follows:

“(2) the term ‘qualified provider’ means—

“(A) any provider that—

“(i) is eligible for payments under a State plan approved under this title;

“(ii) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9);

1 “(iii) is determined by the State agen-
2 cy to be capable of making determinations
3 of the type described in paragraph (1)(A);
4 and

5 “(iv)(I) receives funds under section
6 329, 330, 340, or 340A of the Public
7 Health Service Act, title V of this Act, or
8 title V of the Indian Health Care Improve-
9 ment Act;

10 “(II) participates in a program estab-
11 lished under section 17 of the Child Nutri-
12 tion Act of 1966 or section 4(a) of the Ag-
13 riculture and Consumer Protection Act of
14 1973;

15 “(III) participates in a State perinatal
16 program; or

17 “(IV) is the Indian Health Service or
18 is a health program or facility operated by
19 a tribe or tribal organization under the In-
20 dian Self-Determination Act (Public Law
21 93-638); and

22 “(B) at the option of the State, any indi-
23 vidual who is employed by the State and who is
24 determined by the State agency to be capable of

1 making determinations of the type described in
2 paragraph (1)(A).”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to payments under title XIX of
5 the Social Security Act for calendar quarters beginning
6 on or after January 1, 1994.

7 **SEC. 222. CRITERIA FOR DETERMINING THE AMOUNT OF**
8 **DISALLOWANCES.**

9 (a) **IN GENERAL.**—

10 (1) **CRITERIA FOR INITIAL DETERMINATIONS.**—

11 Section 1903 (42 U.S.C. 1396b) is amended by add-
12 ing at the end the following new subsection:

13 “(x) If the Secretary determines that a disallowance
14 of Federal financial participation should be made under
15 this title with respect to any item or class of items, the
16 Secretary shall, in making a determination with respect
17 to the amount of such disallowance, take into account (to
18 the extent the State makes a showing) factors which shall
19 include—

20 “(1) whether the amount of the disallowance is
21 reasonably related to the act or omission by the
22 State which is the basis for the disallowance; and

23 “(2) whether the act or omission by the State
24 which is the basis for the disallowance was based on
25 a reasonable interpretation of Federal statutes, Fed-

1 eral regulations, or any written guidance provided by
2 the Secretary.”.

3 (2) CRITERIA FOR REDETERMINATIONS.—Sec-
4 tion 1116(d) (42 U.S.C. 1316(d)) is amended—

5 (A) by striking “(d)” and inserting
6 “(d)(1)”; and

7 (B) by adding at the end the following new
8 paragraph:

9 “(2) In conducting any reconsideration of a disallow-
10 ance of Federal financial participation by the Secretary
11 under title XIX, the Departmental Appeals Board of the
12 Department of Health and Human Services (or another
13 entity designated by the Secretary), shall, if such Board
14 or entity upholds the basis for the disallowance, determine
15 whether the amount of the disallowance properly takes
16 into account the factors listed in section 1903(x). If the
17 amount of the disallowance does not properly take into
18 account such factors, the Board shall adjust such amount
19 in accordance with such factors.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to disallowances made after the
22 date of the enactment of this Act and shall take effect
23 without regard to the promulgation of implementing regu-
24 lations.

1 **SEC. 223. INTERMEDIATE SANCTIONS FOR KICKBACK VIO-**
2 **LATIONS.**

3 (a) **PENALTY FOR KICKBACK VIOLATIONS.**—Section
4 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

5 (1) by striking “or” at the end of paragraphs
6 (1) and (2);

7 (2) by adding “or” at the end of paragraph (3);

8 (3) by inserting after paragraph (3) the follow-
9 ing new paragraph:

10 “(4) carries out any activity in violation of
11 paragraph (1) or (2) of section 1128B(b) with re-
12 spect to remuneration relating to a State health care
13 program;”;

14 (4) by striking “given).” at the end of the first
15 sentence and inserting “given or, in cases under
16 paragraph (4), \$10,000 for each such violation).”;

17 (5) in the second sentence, by inserting “in
18 cases under paragraphs (1), (2), and (3),” after “In
19 addition,”; and

20 (6) by inserting after the second sentence the
21 following new sentence: “In cases under paragraph
22 (4), such a person shall be subject to an assessment
23 of not more than twice the total amount of the re-
24 muneration offered, paid, solicited, or received in
25 violation of section 1128B(b), determined without
26 regard to whether a portion of such remuneration

1 was offered, paid, solicited, or received for a lawful
2 purpose.”.

3 (b) AUTHORIZATION TO ACT.—The first sentence of
4 section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is
5 amended by striking the period at the end and inserting
6 “, except that with respect to a proceeding relating to a
7 State health program, the Secretary may initiate such a
8 proceeding at such time and under such procedures as the
9 Secretary determines appropriate unless, within 1 year
10 after the date the Secretary presents a case to the Attor-
11 ney General for consideration, the Attorney General brings
12 an action in a district court of the United States.”.

13 (c) EFFECTIVE DATES.—

14 (1) The amendments made by subsection (a)
15 shall apply to remuneration offered, paid, solicited,
16 or received before, on, or after the date of the enact-
17 ment of this Act.

18 (2) The amendment made by subsection (b)
19 shall apply to cases presented by the Secretary of
20 Health and Human Services for consideration on or
21 after the date of the enactment of this Act.

1 **SEC. 224. TECHNICAL AMENDMENT RELATED TO TAXES ON**
2 **CERTAIN HEALTH CARE ITEMS AND SERV-**
3 **ICES.**

4 (a) **IN GENERAL.**—Section 1903(w)(7)(A)(viii) (42
5 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking the
6 period at the end and inserting “not otherwise subject to
7 a tax described in this subsection.”.

8 (b) **EFFECTIVE DATE.**—(1) Except as provided in
9 paragraph (2), the amendment made by subsection (a)
10 shall be effective January 1, 1994.

11 (2) In the case of a State which the Secretary of
12 Health and Human Services determines requires State
13 legislation in order to avoid a reduction in Federal finan-
14 cial participation under section 1903(a) of the Social Se-
15 curity Act as a result of the amendment made by sub-
16 section (a), the State shall not be subject to such a reduc-
17 tion before the first day of the first calendar quarter be-
18 ginning after the close of the first regular session of the
19 State legislature that begins after the date of the enact-
20 ment of this Act. For purposes of the preceding sentence,
21 in the case of a State that has a 2-year legislative session,
22 each year of such session shall be deemed to be a separate
23 regular session of the State legislature.

1 SEC. 225. APPLICATION OF MAMMOGRAPHY CERTIFI-
2 CATION REQUIREMENTS UNDER THE MEDIC-
3 AID PROGRAM.

4 (a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C.
5 1396a(a)(9)) is amended—

6 (1) by striking “and” at the end of subpara-
7 graph (B),

8 (2) by striking the semicolon at the end of sub-
9 paragraph (C) and inserting “, and”, and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(D) that any mammography paid for
13 under such plan must be conducted by a facility
14 that has a certificate (or provisional certificate)
15 issued under section 354 of the Public Health
16 Service Act;”.

17 (b) EFFECTIVE DATE.—(1) Except as provided in
18 paragraph (2), the amendments made by subsection (a)
19 shall apply to mammography furnished by a facility during
20 calendar quarters beginning on or after the first date that
21 the certificate requirements of section 354(b) of the Public
22 Health Service Act apply to such mammography con-
23 ducted by such facility, without regard to whether or not
24 final regulations to carry out such amendments have been
25 promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 226. NURSING HOME REFORM.

(a) **SUSPENSION OF DECERTIFICATION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—**

(1) **IN GENERAL.—**Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: “, unless the survey shows that the facility is in compliance with

1 the requirements of subsections (b), (c), and (d) of
2 this section;”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall take effect as if included in
5 the enactment of OBRA-1990.

6 (b) REQUIREMENTS FOR CONSULTANTS CONDUCT-
7 ING REVIEWS ON USE OF DRUGS.—

8 (1) IN GENERAL.—Section 1919(c)(1)(D) (42
9 U.S.C. 1396r(c)(1)(D)) is amended by adding at the
10 end the following sentence: “In determining whether
11 such a consultant is qualified to conduct reviews
12 under the preceding sentence, the Secretary shall
13 take into account the needs of nursing facilities
14 under this title to have access to the services of such
15 a consultant on a timely basis.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall take effect as if included in
18 the enactment of OBRA-1987.

19 (c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR
20 SEPARATE DEPOSIT OF PERSONAL FUNDS.—

21 (1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42
22 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking
23 “\$50” and inserting “\$100”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by paragraph (1) shall take effect January 1, 1994.

1 (d) DUE PROCESS PROTECTIONS FOR NURSE
2 AIDES.—

3 (1) PROHIBITING STATE FROM INCLUDING UN-
4 DOCUMENTED ALLEGATIONS IN NURSE AIDE REG-
5 ISTRY.—Section 1919(e)(2)(B) (42 U.S.C.
6 1396r(e)(2)(B)) is amended by striking the period at
7 the end of the first sentence and inserting the fol-
8 lowing: “, but shall not include any allegations of
9 resident abuse or neglect or misappropriation of
10 resident property that are not specifically docu-
11 mented by the State under such subsection.”.

12 (2) DUE PROCESS REQUIREMENTS FOR REBUT-
13 TING ALLEGATIONS.—Section 1919(g)(1)(C) (42
14 U.S.C. 1396r(g)(1)(C)) is amended by striking the
15 second sentence and inserting the following: “The
16 State shall, after providing the individual involved
17 with a written notice of the allegations (including a
18 statement of the availability of a hearing for the in-
19 dividual to rebut the allegations) and the oppor-
20 tunity for a hearing on the record, make a written
21 finding as to the accuracy of the allegations.”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall take effect January 1, 1994.

1 **SEC. 227. INCREASE IN AUTHORIZATION OF APPROPRIA-**
2 **TIONS FOR THE MATERNAL AND CHILD**
3 **HEALTH SERVICES BLOCK GRANT PROGRAM.**

4 Section 501(a) (42 U.S.C. 701(a)) is amended by
5 striking “\$686,000,000 for fiscal year 1990” and insert-
6 ing “\$705,000,000 for fiscal year 1994”.

7 **Subtitle B—Miscellaneous and**
8 **Technical Corrections Relating**
9 **to OBRA-1990**

10 **SEC. 241. EFFECTIVE DATE.**

11 Except as otherwise provided, the amendments made
12 by this subtitle shall take effect as if included in the enact-
13 ment of OBRA-1990.

14 **SEC. 242. CORRECTIONS RELATING TO SECTION 4401 (DRUG**
15 **REBATE PROGRAM).**

16 (a) SECTION 1927.—(1) Section 1927(a) (42 U.S.C.
17 1396r-8(a)), as inserted by section 4401(a)(3) of OBRA-
18 1990, is amended—

19 (A) in paragraph (1)—

20 (i) by amending the second sentence to
21 read as follows: “Any such agreement entered
22 into prior to May 1, 1991, shall be deemed to
23 have been entered into on January 1, 1991, and
24 the amount of the rebate to be paid by the
25 manufacturer under such agreement shall be

1 calculated as if the agreement had been entered
2 into on January 1, 1991.”, and

3 (ii) in the third sentence, by striking
4 “March” and inserting “May”;

5 (B) in paragraph (2)—

6 (i) by striking “first”, and

7 (ii) by striking the period at the end and
8 inserting the following: “, except that such
9 paragraph (and section 1903(i)(10)(A)) shall
10 not apply to drugs dispensed before May 1,
11 1991, if the Secretary determines that there
12 were extenuating circumstances with respect to
13 the first calendar quarter of 1991.”;

14 (C) by amending paragraph (3) to read as fol-
15 lows:

16 “(3) AUTHORIZING PAYMENT FOR DRUGS NOT
17 COVERED UNDER REBATE AGREEMENTS.—Para-
18 graph (1) and section 1903(i)(10) shall not apply to
19 the dispensing of a covered outpatient drug if—

20 “(A) the State has made a determination
21 that the availability of such drug is essential to
22 the health of beneficiaries under the State plan;

23 “(B) the drug has been given a rating of
24 1-A or 1-P by the Food and Drug Administra-
25 tion; and

1 “(C)(i) the physician has obtained approval
2 for the use of the drug in advance of dispensing
3 such drug in accordance with a prior authoriza-
4 tion program described in subsection (d)(5), or

5 “(ii) the Secretary has reviewed and ap-
6 proved the State’s determination under sub-
7 paragraph (A).”; and

8 (D) in paragraph (4)—

9 (i) by striking “In the case” and inserting
10 “(A) In the case”,

11 (ii) by striking “in compliance with” and
12 inserting “in effect under”,

13 (iii) by striking “such agreement provides
14 for a minimum aggregate rebate of 10 percent
15 of the State’s total expenditures under the
16 State plan for coverage of the manufacturer’s
17 drugs under this title” and inserting “such
18 agreement provides for a minimum aggregate
19 rebate of 10 percent of the sum of the amounts
20 determined under subparagraph (B) for all of
21 the manufacturer’s drugs paid for by the State
22 under the agreement”, and

23 (iv) by adding at the end the following new
24 subparagraph:

1 “(B) The amount determined under this sub-
2 paragraph with respect to a manufacturer’s drug
3 paid for by a State under an agreement described in
4 the first sentence of subparagraph (A) is an amount
5 equal to the product of—

6 “(i) the average manufacturer’s price for
7 such drug; and

8 “(ii) the number of dosage units of such
9 drug paid for by the State under such agree-
10 ment.”.

11 (2) Section 1927(b) (42 U.S.C. 1396r-8(b)), as in-
12 serted by section 4401(a)(3) of OBRA-1990, is
13 amended—

14 (A) in paragraph (2)(A), by striking “during”
15 and inserting “for”;

16 (B) in paragraph (3)(A)—

17 (i) in clause (i), by striking the open pa-
18 renthesis before “for” and the close parenthesis
19 after “drugs”,

20 (ii) in clause (i), by striking “subsection
21 (c)(2)(B)) for covered outpatient drugs” and in-
22 serting “subsection (c)(1)(C)) for each covered
23 outpatient drug”, and

24 (iii) in clause (ii), by inserting a comma
25 after “this section” and after “1990”;

1 (C) in paragraph (3)(B)—

2 (i) by striking “\$100,000” and inserting
3 “\$10,000”,

4 (ii) by striking “about charges or prices”,
5 and

6 (iii) by striking “or knowingly provides
7 false information”;

8 (D) in paragraph (3)(C)—

9 (i) in clause (i)—

10 (I) by striking “increased by”, and

11 (II) by striking “, and, if” and insert-
12 ing “. If”,

13 (ii) in clause (ii), by striking “under this
14 section” and inserting “under this section, or a
15 wholesaler or direct seller,”,

16 (iii) in clause (ii), by inserting “under sub-
17 paragraph (A) or (B)” after “provides false in-
18 formation”, and

19 (iv) in clause (ii), by striking “Such civil
20 money penalties are” and inserting “Any such
21 civil money penalty shall be”;

22 (E) in paragraph (3)(D), by striking “whole-
23 saler,” the first time it appears and inserting
24 “wholesaler or the”; and

(F) in paragraph (4)(B)(i), by adding at the end the following new sentence: “Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State’s right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.”.

(3) Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)), as inserted by section 4401(a)(3) of OBRA–1990 and as amended by section 13602 of OBRA–1993, is amended to read as follows:

“(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.”.

(4) Section 1927(h)(2)(A) (42 U.S.C. 1396r–8(h)(2)(A)), as inserted by section 4401(a)(3) of OBRA–1990, is amended by inserting “develops or” before “acquires”.

(5) Section 1927(i) (42 U.S.C. 1396r–8(i)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

1 (A) in paragraph (1), by striking “the the oper-
 2 ation” and inserting “the operation”; and

3 (B) in paragraph (2),

4 (i) by striking subparagraph (C); and

5 (ii) by redesignating subparagraphs (D),
 6 (E), and (F) as subparagraphs (C), (D), and
 7 (E), respectively.

8 (6) Section 1927(j) (42 U.S.C. 1396r-8(j)), as in-
 9 serted by section 4401(a)(3) of OBRA-1990, is amended
 10 to read as follows:

11 “(j) EXEMPTION FOR CERTAIN HEALTH MAINTEN-
 12 NANCE ORGANIZATIONS AND HOSPITALS.—

13 “(1) IN GENERAL.—Except as provided in para-
 14 graph (2), the requirements of this section shall not
 15 apply with respect to covered outpatient drugs dis-
 16 pensed by—

17 “(A) a health maintenance organization; or

18 “(B) a hospital that dispenses covered out-
 19 patient drugs using a drug formulary system
 20 and bills the State no more than the hospital’s
 21 purchasing costs for covered outpatient drugs.

22 “(2) CONSTRUCTION IN DETERMINING BEST
 23 PRICE.—Nothing in paragraph (1) shall be con-
 24 strued as excluding amounts paid by the entities de-
 25 scribed in such paragraph for covered outpatient

1 drugs from the determination of the best price (as
2 defined in subsection (c)(1)(C)) for such drugs.”.

3 (7) Section 1927(k) (42 U.S.C. 1396r-8(k)), as in-
4 serted by section 4401(a)(3) of OBRA-1990, is
5 amended—

6 (A) in paragraph (2)—

7 (i) in the matter preceding clause (i) of
8 subparagraph (A), by striking “paragraph (5)”
9 and inserting “subparagraph (D)”;

10 (ii) in subparagraph (A)—

11 (I) in clause (i), by striking “for safe-
12 ty and effectiveness” and by striking “or
13 which is approved under section 505(j) of
14 such Act”; and

15 (II) by striking “and” at the end;

16 (iii) in subparagraph (B)—

17 (I) in clause (i), by striking “prescrip-
18 tion,” and inserting “prescription;”;

19 (II) in clause (ii), by striking “, and”
20 and inserting “; and”; and

21 (III) by striking “and” at the end;

22 (iv) by striking the period at the end of
23 subparagraph (C) and inserting “; and”; and

24 (v) by adding at the end the following new
25 subparagraph:

1 “(D) a drug which may be sold without a
2 prescription (commonly referred to as an ‘over-
3 the-counter drug’), if the drug is prescribed by
4 a physician (or other person authorized to pre-
5 scribe under State law).”;

6 (B) in subparagraph (H) of paragraph (3), by
7 inserting “services” after “dialysis”;

8 (C) by striking paragraph (4) and redesignating
9 paragraphs (5), (6), (7), (8), and (9) as paragraphs
10 (4), (5), (6), (7), and (8), respectively;

11 (D) by amending paragraph (4), as so redesign-
12 nated, to read as follows:

13 “(4) MANUFACTURER.—The term ‘manufac-
14 turer’ means, with respect to a covered outpatient
15 drug, the entity holding legal title to or possession
16 of the National Drug Code number for such drug.”;
17 and

18 (E) in paragraph (6), as so redesignated—

19 (i) in subparagraph (A)(i), by striking
20 “paragraph (5)” and inserting “paragraph
21 (2)(D)”,

22 (ii) in subparagraph (A)(ii), by inserting
23 “or product licensing application” after “appli-
24 cation”,

(iii) in subparagraph (A)(iv), by inserting
 “or product licensing application” after “appli-
 cation”,

(iv) in subparagraph (A)(iv), by striking
 “distributers” and inserting “distributors”,

(v) in subparagraph (C)(i), by striking
 “pharmaceutically” and inserting “pharma-
 ceutically”, and

(vi) in subparagraph (C)(iii), by striking “,
 provided that” and inserting “if”.

(b) SECTION 1903.—

(1) ENHANCED MATCH.—Section 1903(a) (42
 U.S.C. 1396b(a)) is amended—

(A) by striking the period at the end of
 paragraph (7) and inserting “; plus”; and

(B) by adding at the end the following new
 paragraph:

“(8) 75 per centum of so much of the sums ex-
 pended under the State plan during calendar years
 1991 through 1993 as the Secretary determines at-
 tributable to the statewide adoption of a drug use
 review program which conforms to the requirements
 of section 1927(g).”.

(2) CONFORMING AMENDMENTS.—Section
 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

1 (A) by striking “and” at the end of sub-
2 paragraph (C) and inserting “plus”; and

3 (B) by striking subparagraph (D).

4 (c) FUNDING.—Section 4401(b)(2) of OBRA–1990 is
5 amended by striking the semicolon and all that follows and
6 inserting a period.

7 (d) DEMONSTRATION PROJECTS.—Section
8 4401(c)(1) of OBRA–1990 is amended—

9 (1) in subparagraph (A), by striking “1992”
10 and inserting “1993”;

11 (2) in subparagraph (A), by striking “10” and
12 inserting “5”;

13 (3) in subparagraph (C), by striking “regi-
14 ment” and inserting “regimen”; and

15 (4) in subparagraph (D), by striking “1994”
16 and inserting “1995”.

17 (e) STUDIES.—Section 4401(d) of OBRA–1990 is
18 amended—

19 (1) in paragraph (1)(A), by striking “other in-
20 stitutional facilities,” and inserting “nursing facili-
21 ties, intermediate care facilities for the mentally re-
22 tardated,”;

23 (2) in paragraph (1)(B), by striking “under
24 this subsection” and inserting “under this para-
25 graph”;

(3) in paragraph (1)(B)(i), by striking “under this section” and inserting “under section 1927 of the Social Security Act”;

(4) in paragraph (1)(B)(ii)—

(A) by striking “drug use review” the second time it appears and inserting “the type of drug use review that is”; and

(B) by striking “under this section” and inserting “under such section”;

(5) in paragraph (1)(B)(iii), by striking “under this title” and inserting “under title XIX of the Social Security Act”;

(6) in paragraph (1)(C)—

(A) by striking “May 1, 1991” and inserting “May 1, 1992”, and

(B) by striking “Committees on Aging of the Senate and the House of Representatives” and inserting “Committee on Aging of the Senate”;

(7) in paragraph (2)—

(A) by striking “By not later than May 1 of each year, the Comptroller” and inserting “The Comptroller”;

1 (B) by striking “Committees on Aging of
2 the Senate and House of Representatives” and
3 inserting “Committee on Aging of the Senate”;

4 (C) by striking “an annual report” and in-
5 serting “a report”; and

6 (D) by striking “retail and”;

7 (8) in paragraph (3)—

8 (A) in subparagraph (A), by striking “,
9 acting in consultation with the Comptroller
10 General,”,

11 (B) by indenting subparagraph (B) an ad-
12 ditional 2 ems;

13 (C) in subparagraph (B), by striking “De-
14 cember 31, 1991, the Secretary and the Comp-
15 troller General” and inserting “June 1, 1993,
16 the Secretary”; and

17 (D) by striking “Committees on Aging of
18 the Senate and the House of Representatives”
19 and inserting “Committee on Aging of the Sen-
20 ate”;

21 (9) in paragraph (4)—

22 (A) in subparagraph (A), by striking
23 “each” and by striking the semicolon and in-
24 serting a comma;

(B) in subparagraph (B), by striking “December 31, 1991” and inserting “January 1, 1993”; and

(C) in subparagraph (B), by striking “Committees on Aging of the Senate and the House of Representatives” and inserting “Committee on Aging of the Senate”;

(10) in paragraph (5)—

(A) by striking “Secretary of Health and Human Services” and inserting “Comptroller General”,

(B) by striking “under this title” and inserting “under State medicaid programs”, and

(C) by striking the second sentence and inserting the following new sentence: “The Comptroller General shall report to the Congress on the study not later than January 1, 1993.”; and

(11) by striking paragraph (6).

SEC. 243. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA-1990 is amended by striking “1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))” and inserting “1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))”.

1 **SEC. 244. CORRECTIONS RELATING TO SECTION 4501 (LOW-**
 2 **INCOME MEDICARE BENEFICIARIES).**

3 (a) Section 1902(a)(10)(E)(iii) (42 U.S.C.
 4 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of
 5 OBRA–1990, is amended by striking “cost sharing” and
 6 inserting “cost-sharing”.

7 (b) Section 1905(p)(4)(B) (42 U.S.C.
 8 1396d(p)(4)(B)), as amended by section 4501(c)(1) of
 9 OBRA–1990, is amended by striking
 10 “1902(a)(10)(E)(iii)” and inserting “section
 11 1902(a)(10)(E)(iii)”.

12 **SEC. 245. CORRECTIONS RELATING TO SECTION 4601**
 13 **(CHILD HEALTH).**

14 (a) Section 1902(a)(10)(A)(i)(VII) (42 U.S.C.
 15 1396a(a)(10)(A)(i)(VII)), as added by section
 16 4601(a)(10)(A)(iii) of OBRA–1990, is amended by strik-
 17 ing “family;” and inserting “family; and”.

18 (b) Section 1902(l) (42 U.S.C. 1396a(l)), as amended
 19 by section 4601(a)(1)(C) of OBRA–1990, is amended—

20 (1) in paragraph (1)(C), by striking “children”
 21 after “(C)”;

22 (2) in paragraph (3), by striking
 23 “(a)(10)(A)(i)(VII),,” and inserting
 24 “(a)(10)(A)(i)(VII),”; and

25 (3) in paragraph (4)(B), by inserting a comma
 26 before “(a)(10)(A)(i)(VI),”.

1 (c) Section 1925 (42 U.S.C. 1396r-6), as amended
 2 by section 4601(a) of OBRA-1990, is amended—

3 (1) in subsection (a)(3)(C), by striking
 4 “(i)(VI)” and inserting “(i)(VI),”, and

5 (2) in subsection (b)(3)(C)(i), by striking
 6 “(i)(IV) (i)(VI) (i)(VII), ,” and inserting “(i)(IV),
 7 (i)(VI), (i)(VII),”.

8 **SEC. 246. CORRECTIONS RELATING TO SECTION 4602 (OUT-**
 9 **REACH LOCATIONS).**

10 (a) Section 1902(a)(55) (42 U.S.C. 1396a(a)(55)),
 11 as added by section 4602(a)(3) of OBRA-1990, is
 12 amended—

13 (1) in the matter preceding subparagraph (A)—

14 (A) by striking “subsection” and inserting
 15 “paragraph”, and

16 (B) by striking “(a)” each place it ap-
 17 pears; and

18 (2) in subparagraph (A), by striking
 19 “1905(1)(2)(B)” and inserting “1905(l)(2)(B)”.

20 (b) Section 1902(l)(1) (42 U.S.C. 1396a(l)(1)) is
 21 amended by striking “who are not described in any of
 22 subclauses (I) through (III) of subsection (a)(10)(A)(i)
 23 and”.

1 **SEC. 247. CORRECTIONS RELATING TO SECTION 4604 (PAY-**
2 **MENT FOR HOSPITAL SERVICES FOR CHIL-**
3 **DREN UNDER 6 YEARS OF AGE).**

4 (a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is
5 amended in clause (X) in the matter following subpara-
6 graph (F) by striking “under one year of age” and insert-
7 ing “under 6 years of age”.

8 (b) Section 1902(s) (42 U.S.C. 1396a(s)), as added
9 by section 4604(a) of OBRA-1990, is amended to read
10 as follows:

11 “(s) In order to meet the requirements of subsection
12 (a)(56), the State plan must provide that payments to hos-
13 pitals under the plan for inpatient services furnished to
14 infants who have not attained the age of 1 year (or, in
15 the case of such an individual who is an inpatient on his
16 first birthday, until such individual is discharged) shall—

17 “(1) if made on a prospective basis (whether
18 per diem, per case, or otherwise), provide for an
19 outlier adjustment in payment amounts for medi-
20 cally necessary inpatient hospital services involving
21 exceptionally high costs or exceptionally long lengths
22 of stay;

23 “(2) not be limited by the imposition of day
24 limits; and

25 “(3) not be limited by the imposition of dollar
26 limits (other than dollar limits resulting from pro-

spective payments as adjusted pursuant to paragraph (1)).”.

(c) Section 1923(a)(2)(C) (42 U.S.C. 1396r-4(a)(2)(C)) is amended by striking “provided on or after July 1, 1989,” and all that follows and inserting the following: “involving exceptionally high costs or exceptionally long lengths of stay—

“(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

“(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.”.

SEC. 248. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) (42 U.S.C. 1396r-4(c)) is amended—

(1) in paragraph (2), by striking “paragraph (b)(3)” and inserting “subsection (b)(3)”;

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking “the payment adjustment described in paragraph (2)” and inserting “a payment adjustment described in paragraph (2) or (3)”.

1 (b) Effective December 22, 1987, section
 2 1923(d)(2)(A)(ii) (42 U.S.C. 1396r-4(d)(2)(A)(ii)) is
 3 amended by striking “the date of the enactment of this
 4 Act” and inserting “December 22, 1987”.

5 (c) Section 4703(d) of OBRA-1990 is amended by
 6 striking “412(a)(2)” and inserting “4112(a)(2)”.

7 **SEC. 249. CORRECTIONS RELATING TO SECTION 4704 (FED-**
 8 **ERALLY-QUALIFIED HEALTH CENTERS).**

9 (a) Clause (ix) of section 1903(m)(2)(A) (42 U.S.C.
 10 1396b(m)(2)(A)), as added by section 4704(b)(1)(C) of
 11 OBRA-1990, is amended—

12 (1) by striking “of such center” the first place
 13 it appears;

14 (2) by striking “federally qualified” and insert-
 15 ing “Federally-qualified”;

16 (3) by inserting “section” before
 17 “1905(a)(2)(C)”; and

18 (4) by moving such clause 2 ems to the left.

19 (b) Section 1903(m)(2)(B) (42 U.S.C.
 20 1396b(m)(2)(B)), as amended by section 4704(b)(2) of
 21 OBRA-1990, is amended in the matter preceding clause
 22 (i) by striking “except with respect to clause (ix) of sub-
 23 paragraph (A),” and inserting “(except with respect to
 24 clause (ix) of such subparagraph)”.

1 (c) Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)), as
2 amended by section 4704(c) of OBRA-1990 and sections
3 13606(a) and 13631(f)(2)(B) of OBRA-1993, is
4 amended—

5 (1) in subparagraph (A)—

6 (A) by striking “Federally-qualified” and
7 inserting “Federally-qualified”, and

8 (B) by striking “an patient” and inserting
9 “a patient”, and

10 (2) in subparagraph (B)—

11 (A) in the matter preceding clause (i), by
12 striking “a entity” and inserting “an entity”,

13 (B) by striking “or” at the end of clause
14 (iii),

15 (C) by striking the semicolon at the end of
16 clause (iv) and inserting “, or”, and

17 (D) by striking “and includes an out-
18 patient health program” and all that follows
19 through “for good cause shown.” and inserting
20 the following:

21 “(v) is an outpatient health program or facility
22 operated by a tribe or tribal organization under the
23 Indian Self-Determination Act (Public Law 93-638)
24 or by an urban Indian organization receiving funds
25 under title V of the Indian Health Care Improve-

1 ment Act for the provision of primary health serv-
2 ices.

3 In applying clause (ii), the Secretary may waive any re-
4 quirement referred to in such clause for up to 2 years for
5 good cause shown.”.

6 **SEC. 250. CORRECTIONS RELATING TO SECTION 4708 (SUB-**
7 **STITUTE PHYSICIANS).**

8 (a) Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)),
9 as added by section 4708(a)(3) of OBRA-1990 and as
10 amended by section 13631(e)(1) of OBRA-1993, is
11 amended—

12 (1) in the matter preceding subparagraph (A),
13 by striking “except that” and inserting “except that
14 (subject to section 1903(i)(12))”; and

15 (2) by amending subparagraph (C) to read as
16 follows:

17 “(C) payment may be made to a physician
18 for physicians’ services (and services furnished
19 incident to such services) furnished by a second
20 physician to patients of the first physician if (i)
21 the first physician is unavailable to provide the
22 services; (ii) the services are furnished pursuant
23 to an arrangement between the two physicians
24 that (I) is informal and reciprocal, or (II) in-
25 volves per diem or other fee-for-time compensa-

tion for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the State for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician; and".

(b) The amendments made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 251. CORRECTIONS RELATING TO SECTION 4711
(HOME AND COMMUNITY CARE FOR FRAIL
ELDERLY).

(a) Section 1929 (42 U.S.C. 1396t), as added by section 4711(b) of OBRA-1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

- 1 (4) in subsection (e)(2)(B), by striking “fiscal
- 2 year 1989” and inserting “fiscal year 1990”;
- 3 (5) in subsection (f)(1), by striking “Commu-
- 4 nity care” and inserting “community care”;
- 5 (6) in subsection (g)(1)—
- 6 (A) by striking “SETTINGS” and inserting
- 7 “SETTING”; and
- 8 (B) in subparagraph (B), by striking “set-
- 9 ting.” and inserting “setting in which home and
- 10 community care under this section is pro-
- 11 vided.”;
- 12 (7) in subsection (g)(2), by striking “commu-
- 13 nity care” the second, third, and fourth place it ap-
- 14 pears and inserting “home and community care”;
- 15 (8) in subsection (h)(1)—
- 16 (A) by amending subparagraph (A) to read
- 17 as follows:
- 18 “(A) a nonresidential setting that serves 8
- 19 or more individuals; or”; and
- 20 (B) in subparagraph (B)—
- 21 (i) by striking “more than 8” and in-
- 22 serting “8 or more”; and
- 23 (ii) by inserting “(other than merely
- 24 board)” after “personal services”;

(9) in subsection (h)(2), by striking “community care” the second and third place it appears and inserting “home and community care”;

(10) in the first sentence of subsection (j)(1)(A), by striking “the State may terminate the provider’s participation under the State plan and may provide in addition for a civil money penalty” and inserting “the State may provide for a civil money penalty and, in addition, may terminate the provider’s participation under the State plan”;

(11) in the first sentence of subsection (j)(2)(B), by striking “the Secretary may terminate the provider’s participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C)” and inserting “the Secretary may provide for a civil money penalty under subparagraph (C) and, in addition, terminate the provider’s participation under the State plan”;

(12) in subsection (k)(1)(A)(i)—

(A) by striking “(d)(2)(E)” and inserting “(d)(2)”, and

(B) by striking “settings,” and inserting “settings),”;

(13) in subsection (l), by striking “State wide-ness” and inserting “Statewideness”;

1 (14) in paragraph (2) of subsection (m) by
2 striking “Individual Community Care Plan” and in-
3 serting “individual community care plan”; and

4 (15) by adding at the end the following new
5 subsection:

6 “(n) COMMUNITY CARE SETTING DEFINED.—In this
7 section, the term ‘community care setting’ means a small
8 community care setting (as defined in subsection (g)(1))
9 or a large community care setting (as defined in sub-
10 section (h)(1)).”.

11 (b) Section 1905(r)(5) (42 U.S.C. 1396d(r)(5)) is
12 amended by striking “section 1905(a)” and inserting
13 “subsection (a) (other than services described in para-
14 graph (22) or (23) of such subsection)”.

15 (c) Section 4711(f) of OBRA–1990 is amended by
16 striking “Act” each place it appears and inserting “sec-
17 tion”.

18 **SEC. 252. CORRECTIONS RELATING TO SECTION 4712 (COM-**
19 **MUNITY SUPPORTED LIVING ARRANGE-**
20 **MENTS).**

21 (a) Section 1930 (42 U.S.C. 1396u), as added by sec-
22 tion 4712(b)(2) of OBRA–1990, is amended—

23 (1) in subsection (b)—

24 (A) by striking “title the term,” and in-
25 serting “title, the term”,

(B) by striking “guardian” and inserting
“guardian or”, and

(C) by striking “3 other” and inserting
“3”;

(2) in subsection (d)—

(A) in the matter preceding paragraph (1),
by striking “program,” and inserting “pro-
gram”, and

(B) in the second sentence, by striking
“plan” each place it appears and inserting
“program”; and

(3) in subsection (i), by striking “FUNDS” and
inserting “FUNDS”.

(b) Section 4712(c) of OBRA-1990 is amended—

(1) in paragraph (1), by inserting “of section
1930 of the Social Security Act” after “subsection
(h)”; and

(2) in paragraph (2), by striking “this section”
and inserting “such section”.

**SEC. 253. CORRECTION RELATING TO SECTION 4713 (COBRA
CONTINUATION COVERAGE).**

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is
amended in the matter following subparagraph (F) by
striking “COBRA continuation premiums” and inserting
“COBRA premiums”.

1 (b) Section 1902(u)(3) (42 U.S.C. 1396a(u)(3)), as
2 added by section 4713(a)(2) of OBRA-1990, is amended
3 by striking “title VI” and inserting “part 6 of subtitle B
4 of title I”.

5 **SEC. 254. CORRECTION RELATING TO SECTION 4716 (MED-**
6 **ICAID TRANSITION FOR FAMILY ASSIST-**
7 **ANCE).**

8 Section 4716(a) of OBRA-1990 is amended by strik-
9 ing “AMENDMENTS.—Subsection (f) of section” and in-
10 serting “IN GENERAL.—Section”.

11 **SEC. 255. CORRECTIONS RELATING TO SECTION 4718 (MEDI-**
12 **CALLY NEEDY INCOME LEVELS FOR CERTAIN**
13 **1-MEMBER FAMILIES).**

14 Section 4718(b) of OBRA-1990 is amended by strik-
15 ing “June 1, 1989” and inserting “July 1, 1989”.

16 **SEC. 256. CORRECTIONS RELATING TO SECTION 4723 (MED-**
17 **ICAID SPEND-DOWN OPTION).**

18 Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)), as
19 amended by section 4723(a) of OBRA-1990, is amended
20 by striking “to the State, provided that” and inserting “to
21 the State if”.

1 **SEC. 257. CORRECTIONS RELATING TO SECTION 4724 (OP-**
2 **TIONAL STATE DISABILITY DETERMINA-**
3 **TIONS).**

4 Section 1902(v) (42 U.S.C. 1396a(v)), as added by
5 section 4724 of OBRA-1990, is amended—

6 (1) by striking “(v)(1)” and inserting “(v)”;

7 and

8 (2) by striking “of the Social Security Act”.

9 **SEC. 258. CORRECTION RELATING TO SECTION 4732 (SPE-**
10 **CIAL RULES FOR HEALTH MAINTENANCE OR-**
11 **GANIZATIONS).**

12 Section 1903(m)(2)(F)(i) (42 U.S.C.
13 1396b(m)(2)(F)(i)), as amended by section 4732(b)(2)(B)
14 of OBRA-1990, is amended by striking “or” before “with
15 an eligible organization”.

16 **SEC. 259. CORRECTIONS RELATING TO SECTION 4747 (COV-**
17 **ERAGE OF HIV-POSITIVE INDIVIDUALS).**

18 Section 4747 of OBRA-1990 is amended—

19 (1) in subsection (a)—

20 (A) by striking “services described in sub-

21 section (c)” and inserting “services described in

22 subsection (b)(1) (and may provide coverage for

23 services described in subsection (b)(2))”, and

24 (B) by striking “to individuals” and insert-

25 ing “to individuals who are not otherwise eligi-

26 ble for medical assistance under such title,”;

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) SERVICES AVAILABLE UNDER A DEMONSTRA-
4 TION PROJECT.—

5 “(1) REQUIRED SERVICES.—

6 “(A) IN GENERAL.—Services described in
7 this paragraph are the following:

8 “(i) General and preventive medical
9 care services, including outpatient care,
10 physician visits, and clinic visits.

11 “(ii) Other laboratory and X-ray serv-
12 ices.

13 “(iii) Prescription drugs (including
14 costs associated with the intravenous ad-
15 ministration of prescription drugs).

16 “(iv) Case management services.

17 “(B) SCOPE OF SERVICES.—The services
18 described in subparagraph (A) may be limited
19 under a demonstration project only on the basis
20 of medical necessity or the appropriateness of
21 such services.

22 “(2) OPTIONAL SERVICES.—

23 “(A) IN GENERAL.—Services described in
24 this paragraph are the following:

25 “(i) Counseling and social services.

1 “(ii) Substance abuse treatment.

2 “(iii) Health education services.

3 “(iv) Dental services.

4 “(B) SCOPE OF SERVICES.—A demonstra-
5 tion project may limit the amount, duration, or
6 scope of services described in subparagraph
7 (A).”;

8 (3) in subsection (c)—

9 (A) in paragraph (1)—

10 (i) by striking “with a hospital” and
11 all that follows through “other entity
12 have” and inserting “with an entity which
13 has”, and

14 (ii) by striking “and have access” and
15 all that follows through the end and insert-
16 ing “and has access to data on comparable
17 patients who have so tested and who are
18 not participating in the demonstration
19 project.”, and

20 (B) by striking paragraphs (2) and (3) and
21 redesignating paragraph (4) as paragraph (2);

22 (4) in subsection (d), by striking “paragraph
23 (3)” and “paragraph (1)” and inserting “subsection
24 (b)” and “subsection (a)”, respectively; and

1 (5) in subsection (f), by adding at the end the
2 following new sentence: “Such sums as may be avail-
3 able under the limitation set forth in this paragraph
4 for fiscal year 1993 shall be available until ex-
5 pended.”.

6 **SEC. 260. CORRECTION RELATING TO SECTION 4751 (AD-**
7 **VANCED DIRECTIVES).**

8 Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)),
9 as amended by section 4751(b)(1) of OBRA-1990, is
10 amended—

11 (1) by striking “1902(w)” and inserting
12 “1902(w) and”; and

13 (2) by striking “1902(a)” and inserting
14 “1902(w)”.

15 **SEC. 261. CORRECTIONS RELATING TO SECTION 4752 (PHY-**
16 **SICIANS’ SERVICES).**

17 (a) Paragraph (59) of section 1902(a) (42 U.S.C.
18 1396a(a)), as added by section 4752(c)(1)(C) of OBRA-
19 1990 and as redesignated by section 13623(a)(6) of
20 OBRA-1993, is amended by striking “subsection (v)” and
21 inserting “subsection (x)”.

22 (b) Section 1903(i)(12) (42 U.S.C. 1396b(i)(12)), as
23 inserted by section 4752(e) of OBRA-1990 and as redes-
24 ignated by section 13631(c)(3) of OBRA-1993, is
25 amended—

1 (1) by amending clause (i) of subparagraph (A)
2 to read as follows:

3 “(i) is certified in family practice or
4 pediatrics by the medical specialty board
5 recognized by the American Board of Med-
6 ical Specialties for family practice or pedi-
7 atrics or is certified in general practice or
8 pediatrics by the medical specialty board
9 recognized by the American Osteopathic
10 Association,”;

11 (2) by amending clause (i) of subparagraph (B)
12 to read as follows:

13 “(i) is certified in family practice or
14 obstetrics by the medical specialty board
15 recognized by the American Board of Med-
16 ical Specialties for family practice or ob-
17 stetrics or is certified in general practice or
18 obstetrics by the Medical Specialty Board
19 recognized by the American Osteopathic
20 Association,”; and

21 (3) in subparagraphs (A) and (B)—

22 (A) by striking “or” at the end of clause
23 (v);

24 (B) by redesignating clause (vi) as clause
25 (vii); and

1 (C) by inserting after clause (v) the follow-
 2 ing new clause:

3 “(vi) delivers such services in the
 4 emergency department of a hospital par-
 5 ticipating in the State plan approved under
 6 this title, or”.

7 **SEC. 262. CORRECTIONS RELATING TO SECTION 4801**
 8 **(NURSING HOME REFORM).**

9 (a) Section 1919(b)(3)(C)(i)(I) (42 U.S.C.
 10 1396r(b)(3)(C)(i)(I)), as amended by section 4801(e)(3)
 11 of OBRA-1990, is amended by striking “not to exceed”
 12 before “14 days”.

13 (b) Section 1919(b)(5)(D) (42 U.S.C.
 14 1396r(b)(5)(D)), as amended by section 4801(a)(4) of
 15 OBRA-1990, is amended by striking the comma before
 16 “or a new competency evaluation program.”.

17 (c) Section 1919(b)(5)(G) (42 U.S.C.
 18 1396r(b)(5)(G)) is amended by striking “or licensed or
 19 certified social worker” and inserting “licensed or certified
 20 social worker, registered respiratory therapist, or certified
 21 respiratory therapy technician”.

22 (d) Section 1919(f)(2)(B)(i) (42 U.S.C.
 23 1396r(f)(2)(B)(i)) is amended by striking “facilities,” and
 24 inserting “facilities (subject to clause (iii)),”.

1 (e) Section 1919(f)(2)(B)(iii)(I)(c) (42 U.S.C.
2 1396r(f)(2)(B)(iii)(I)(c)) is amended by striking “clauses”
3 each place it appears and inserting “clause”.

4 (f) Section 1919(g)(5)(B) (42 U.S.C.
5 1396r(g)(5)(B)) is amended by striking “paragraphs” and
6 inserting “paragraph”.

7 (g) Section 4801(a)(6)(B) of OBRA-1990 is
8 amended—

9 (1) by striking “The amendments” and insert-
10 ing “(i) The amendments”;

11 (2) by redesignating clauses (i) through (v) as
12 subclauses (I) through (V); and

13 (3) by adding at the end the following new
14 clause:

15 “(ii) Notwithstanding clause (i) and sub-
16 ject to section 1919(f)(2)(B)(iii)(I) of the Social
17 Security Act (as amended by subparagraph
18 (A)), a State may approve a training and com-
19 petency evaluation program or a competency
20 evaluation program offered by or in a nursing
21 facility described in clause (i) if, during the pre-
22 vious 2 years, none of the subclauses of clause
23 (i) applied to the facility.”.

1 **SEC. 263. OTHER TECHNICAL CORRECTIONS.**

2 (a) Section 1905(o)(1)(A) (42 U.S.C.
3 1396d(o)(1)(A)) is amended—

4 (1) in the first sentence, by striking “intermedi-
5 ate care facility services” and inserting “for nursing
6 facility services or intermediate care facility services
7 for the mentally retarded”; and

8 (2) in the second sentence, by striking “or in-
9 termediate care facility” and inserting “(for pur-
10 poses of title XVIII), a nursing facility, or an inter-
11 mediate care facility for the mentally retarded”.

12 (b) Section 1915(d) (42 U.S.C. 1396n(d)) is
13 amended—

14 (1) by striking “skilled nursing facility or inter-
15 mediate care facility” each place it appears in para-
16 graphs (1), (2)(B), and (2)(C) and inserting “nurs-
17 ing facility”;

18 (2) in paragraph (2)(B)(i), by striking “skilled
19 nursing or intermediate care facility” and inserting
20 “nursing facility”;

21 (3) in paragraph (5)(A), by striking “under”
22 the second place it appears and inserting “(or, in the
23 case of waiver years beginning on or after October
24 1, 1990, with respect to nursing facility services and
25 home and community-based services) under”; and

26 (4) in paragraph (5)(B)—

(A) in clause (i), by striking “furnished” and inserting “(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished”; and

(B) in clause (iii)(I), by striking “(regardless” and inserting “(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless”.

(c)(1) Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A)) is amended to read as follows:

“(A)(i) is in a medical institution or nursing facility; or

“(ii) is described in section 1902(a)(10)(A)(ii)(VI) (except that for purposes of subsection (d), such term shall include such individual only if the State elects to apply such subsection to the individual); and”.

(2) The amendments made by this subsection shall apply to home or community-based services furnished on or after January 1, 1994.

1 Subtitle C—Miscellaneous and
2 Technical Corrections Relating
3 to OBRA-1993

4 SEC. 271. EFFECTIVE DATE.

5 Except as otherwise provided, the amendments made
6 by this part shall take effect as if included in the enact-
7 ment of OBRA-1993.

8 SEC. 272. CORRECTIONS RELATING TO SECTION 13601 (PER-
9 SONAL CARE SERVICES).

10 Section 13601(a)(3) of OBRA-1993 is amended by
11 striking “comma” and inserting “period”.

12 SEC. 273. CORRECTIONS RELATING TO SECTION 13604
13 (EMERGENCY SERVICES FOR ALIENS).

14 Section 13604(b)(2) of OBRA-1993 is amended to
15 read as follows:

16 “(2) The Secretary of Health and Human Services
17 shall not disallow expenditures made under section
18 1903(v)(2) of the Social Security Act for care and services
19 relating to organ transplant procedures furnished before
20 the date of the enactment of this Act.”.

21 SEC. 274. CORRECTIONS RELATING TO SECTION 13611
22 (TRANSFERS OF ASSETS; TREATMENT OF
23 CERTAIN TRUSTS).

24 (a) Section 1917(c)(2)(C)(iii) (42 U.S.C.
25 1396p(c)(2)(C)(iii)), as added by section

1 13611(a)(2)(C)(iv) of OBRA-1993, is amended by strik-
2 ing “all”.

3 (b) Section 1917(c)(4) (42 U.S.C. 1396p(c)(4)), as
4 amended by section 13611(a)(2)(F), is amended by strik-
5 ing “resources” and inserting “assets”.

6 (c) Section 13611(e)(3) of OBRA-1993 is
7 amended—

8 (1) by striking “amendment made by subsection
9 (b)” and inserting “amendments made by sub-
10 sections (a) and (b)”; and

11 (2) by striking “such amendment” and insert-
12 ing “such amendments”.

13 **SEC. 275. CORRECTIONS RELATING TO SECTION 13612**
14 **(MEDICAID ESTATE RECOVERIES).**

15 Section 1917(b)(1) (42 U.S.C. 1396p(b)(1)), as
16 amended by section 13612(a) of OBRA-1993, is
17 amended—

18 (1) by amending the matter preceding subpara-
19 graph (A) to read as follows:

20 “(b)(1) No adjustment or recovery of any medical as-
21 sistance correctly paid on behalf of an individual under
22 the State plan may be made, except that the State shall
23 comply with the following:”;

24 (2) by amending subparagraph (A) to read as
25 follows:

1 “(A) In the case of an individual described in
2 subsection (a)(1)(B), the State—

3 “(i) shall seek adjustment or recovery upon
4 the sale of property subject to a lien imposed on
5 account of medical assistance paid on behalf of
6 the individual, and

7 “(ii) may seek adjustment or recovery from
8 the individual’s estate.”; and

9 (3) in subparagraph (B)—

10 (A) in clause (i), by striking “or” at the
11 end and inserting “and”; and

12 (B) in clause (ii), by inserting “additional”
13 after “any”.

14 **SEC. 276. CORRECTIONS RELATING TO SECTION 13622 (LI-**
15 **ABILITY OF THIRD PARTIES TO PAY FOR**
16 **CARE AND SERVICES).**

17 (a) Section 1902(a)(25)(A) (42 U.S.C.
18 1396a(a)(25)(A)), as amended by section 13622(a) of
19 OBRA-1993, is amended by striking “(as defined in sec-
20 tion 607(1))” and inserting “(including any such plan
21 meeting the definition of section 607(1))”.

22 (b) Section 1902(a)(25)(I) (42 U.S.C.
23 1396a(a)(25)(I)), as added by section 13622(c) of OBRA-
24 1993, is amended to read as follows:

“(I) assurances satisfactory to the Secretary that the State has in effect laws providing that, to the extent that payment has been made under the State plan of that or any other State for medical assistance for health care items or services furnished to an individual, the State paying such medical assistance is considered to have acquired the rights of such individual to payment by any third party legally liable to pay for such items or services;”.

**SEC. 277. CORRECTIONS RELATING TO SECTION 13623
(MEDICAL CHILD SUPPORT).**

(a)(1) Title XIX (42 U.S.C. 1396 et seq.) is amended by redesignating section 1908, as added by section 13623(b) of OBRA-1993, as section 1909.

(2) Paragraph (60) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 13623(a) of OBRA-1993, is amended by striking “section 1908” and inserting “section 1909”.

(b) Subsection (b) of section 1909, as redesignated by subsection (a), is amended by striking “as defined in section 607(1)” and inserting “including any such plan meeting the definition of section 607(1)”.

1 **SEC. 278. CORRECTIONS RELATING TO SECTION 13624 (PHY-**
2 **SICIAN REFERRALS).**

3 Section 13624(b) of OBRA-1993 is amended by
4 striking “on or”.

5 **SEC. 279. CORRECTIONS RELATING TO SECTION 13631**
6 **(MEDICAID PEDIATRIC IMMUNIZATION PRO-**
7 **VISIONS).**

8 (a) Section 1902(a)(32)(D) (42 U.S.C.
9 1396(a)(32)(D)), as added by section 13631(e)(1) of
10 OBRA-1993, is amended by striking “(which price in-
11 cludes a reasonable amount to cover shipping and the han-
12 dling of returns)” and inserting “plus a reasonable
13 amount to cover shipping and the handling of returns”.

14 (b) Section 1928(d)(3)(B) (42 U.S.C.
15 1396s(d)(3)(B)), as added by section 13631(b)(2) of
16 OBRA-1993, is amended by striking “and any applicable
17 excise tax established under section 4131 of the Internal
18 Revenue Code of 1986”.

19 **SEC. 280. CORRECTIONS RELATING TO SECTION 13643**
20 **(DEMONSTRATION PROJECTS).**

21 Effective as if included in the enactment of OBRA-
22 1990, section 4745 of such Act is amended in subsection
23 (d) by striking “shall commence not later than July 1,
24 1991 and”.

1 **TITLE III—INCOME SECURITY,**
2 **HUMAN RESOURCES, AND RE-**
3 **LATED PROGRAMS**

4 **Subtitle A—Child Welfare, Foster**
5 **Care, Adoption**

6 **SEC. 301. REQUIRED PROTECTIONS FOR FOSTER CHIL-**
7 **DREN.**

8 (a) IN GENERAL.—Section 422(b) (42 U.S.C.
9 622(b)) is amended—

10 (1) by striking “and” at the end of paragraph
11 (7);

12 (2) by striking the period at the end of para-
13 graph (8) and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(9) provide assurances that the State—

16 “(A) since June 17, 1980, has completed
17 an inventory of all children who, before the in-
18 ventory, had been in foster care under the re-
19 sponsibility of the State for 6 months or more,
20 which determined—

21 “(i) the appropriateness of, and neces-
22 sity for, the foster care placement;

23 “(ii) whether the child could or should
24 be returned to the parents of the child or

1 should be freed for adoption or other per-
2 manent placement; and

3 “(iii) the services necessary to facili-
4 tate the return of the child or the place-
5 ment of the child for adoption or legal
6 guardianship;

7 “(B) is operating, to the satisfaction of the
8 Secretary—

9 “(i) a statewide information system
10 from which can be readily determined the
11 status, demographic characteristics, loca-
12 tion, and goals for the placement of every
13 child who is (or, within the immediately
14 preceding 12 months, has been) in foster
15 care;

16 “(ii) a case review system (as defined
17 in section 475(5)) for each child receiving
18 foster care under the supervision of the
19 State;

20 “(iii) a service program designed to
21 help children—

22 “(I) where appropriate, return to
23 families from which they have been
24 removed; or

1 “(II) be placed for adoption, with
2 a legal guardian, or, if adoption or
3 legal guardianship is determined not
4 to be appropriate for a child, in some
5 other planned, permanent living ar-
6 rangement; and

7 “(iv) a preplacement preventive serv-
8 ices program designed to help children at
9 risk of foster care placement remain with
10 their families; and

11 “(C)(i) has reviewed (or within 12 months
12 after the date of the enactment of this para-
13 graph will review) State policies and adminis-
14 trative and judicial procedures in effect for chil-
15 dren abandoned at or shortly after birth (in-
16 cluding policies and procedures providing for
17 legal representation of such children); and

18 “(ii) is implementing (or within 24 months
19 after the date of the enactment of this para-
20 graph will implement) such policies and proce-
21 dures as the State determines, on the basis of
22 the review described in clause (i), to be nec-
23 essary to enable permanent decisions to be
24 made expeditiously with respect to the place-
25 ment of such children.”.

1 (b) RESTRICTION ON REALLOTMENT.—Section 424
2 (42 U.S.C. 624) is amended—

3 (1) in the first sentence, by striking “The
4 amount” and inserting the following:

5 “(a) IN GENERAL.—Subject to subsection (b), the
6 amount”; and

7 (2) by adding at the end the following:

8 “(b) EXCEPTION RELATING TO FOSTER CHILD PRO-
9 TECTIONS.—The Secretary shall not realLOT under sub-
10 section (a) of this section any amount that is withheld or
11 recovered from a State due to the failure of the State to
12 meet the requirements of section 422(b)(9).”.

13 (c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby
14 repealed.

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 423(a) (42 U.S.C. 623(a)) is
17 amended by striking “and in section 427”.

18 (2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is
19 amended by striking “the statistical report required
20 by section” and inserting “section 422(b)(9) or”.

21 (3) Section 472(d) (42 U.S.C. 672(d)) is
22 amended by striking “427(b)” and inserting
23 “422(b)(9)”.

1 (e) EFFECTIVE DATE.—The amendments and repeal
 2 made by this section shall be effective with respect to fiscal
 3 years beginning on or after October 1, 1995.

4 **SEC. 302. CONFORMITY REVIEWS.**

5 (a) IN GENERAL.—Part A of title XI (42 U.S.C.
 6 1301–1320b–13) is amended by inserting after section
 7 1122 the following:

8 “REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS,
 9 AND OF FOSTER CARE AND ADOPTION ASSISTANCE
 10 PROGRAMS, FOR CONFORMITY WITH STATE PLAN RE-
 11 QUIREMENTS

12 “SEC. 1123. (a) IN GENERAL.—The Secretary, in
 13 consultation with the State agencies administering the
 14 State programs under parts B and E of title IV, shall pro-
 15 mulgate regulations for the review of such programs to
 16 determine whether such programs are in substantial con-
 17 formity with—

18 “(1) State plan requirements under such parts
 19 B and E,

20 “(2) implementing regulations promulgated by
 21 the Secretary, and

22 “(3) the relevant approved State plans.

23 “(b) ELEMENTS OF REVIEW SYSTEM.—The regula-
 24 tions referred to in subsection (a) shall—

25 “(1) specify the timetable for conformity re-
 26 views of State programs, including—

1 “(A) an initial review of each State pro-
2 gram;

3 “(B) a timely review of a State program
4 following a review in which such program was
5 found not to be in substantial conformity; and

6 “(C) less frequent reviews of State pro-
7 grams which have been found to be in substan-
8 tial conformity, but such regulations shall per-
9 mit the Secretary to reinstate more frequent re-
10 views based on information which indicates that
11 a State program may not be in conformity;

12 “(2) specify the requirements subject to review,
13 and the criteria to be used to measure conformity
14 with such requirements and to determine whether
15 there is a substantial failure to so conform;

16 “(3) specify the method to be used to determine
17 the amount of any Federal matching funds to be
18 withheld (subject to paragraph (4)) due to the State
19 program’s failure to so conform, which ensures
20 that—

21 “(A) such funds will not be withheld with
22 respect to a program, unless it is determined
23 that the program fails substantially to so con-
24 form;

1 “(B) such funds will not be withheld for a
2 failure to so conform resulting from the State’s
3 reliance upon and correct use of formal written
4 statements of Federal law or policy provided to
5 the State by the Secretary; and

6 “(C) the amount of such funds withheld is
7 related to the extent of the failure to so con-
8 form; and

9 “(4) require the Secretary, with respect to any
10 State program found to have failed substantially to
11 so conform—

12 “(A) to afford the State an opportunity to
13 adopt and implement a corrective action plan,
14 approved by the Secretary, designed to end the
15 failure to so conform;

16 “(B) to make technical assistance available
17 to the State to the extent feasible to enable the
18 State to develop and implement such a correc-
19 tive action plan;

20 “(C) to suspend the withholding of any
21 Federal matching funds under this section while
22 such a corrective action plan is in effect; and

23 “(D) to rescind any such withholding if the
24 failure to so conform is ended by successful
25 completion of such a corrective action plan.

1 “(c) PROVISIONS FOR ADMINISTRATIVE AND JUDI-
2 CIAL REVIEW.—The regulations referred to in subsection
3 (a) shall—

4 “(1) require the Secretary, not later than 10
5 days after a final determination that a program of
6 the State is not in conformity, to notify the State
7 of—

8 “(A) the basis for the determination; and

9 “(B) the amount of the Federal matching
10 funds (if any) to be withheld from the State;

11 “(2) afford the State an opportunity to appeal
12 the determination to the Departmental Appeals
13 Board within 60 days after receipt of the notice de-
14 scribed in paragraph (1) (or, if later, after failure to
15 continue or to complete a corrective action plan);
16 and

17 “(3) afford the State an opportunity to obtain
18 judicial review of an adverse decision of the Board,
19 within 60 days after the State receives notice of the
20 decision of the Board, by appeal to the district court
21 of the United States for the judicial district in which
22 the principal or headquarters office of the agency re-
23 sponsible for administering the program is located.”.

1 (b) CONFORMING AMENDMENT.—Section 471(b) (42
 2 U.S.C. 671(b)) is amended by striking all that follows the
 3 first sentence.

4 (c) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
 6 graph (2), the amendment made by subsection (a)
 7 shall take effect on the date of the enactment of this
 8 Act.

9 (2) CONFORMING AMENDMENT.—The amend-
 10 ment made by subsection (b) shall take effect on Oc-
 11 tober 1, 1995.

12 (3) REGULATIONS.—The Secretary shall pro-
 13 mulgate the regulations referred to in section
 14 1123(a) of the Social Security Act (as added by this
 15 section) not later than January 1, 1995, to take ef-
 16 fect on October 1, 1995.

17 **SEC. 303. STATES REQUIRED TO REPORT ON MEASURES**
 18 **TAKEN TO COMPLY WITH THE INDIAN CHILD**
 19 **WELFARE ACT.**

20 (a) STATE PLAN REQUIREMENT.—Section 422(b)
 21 (42 U.S.C. 622(b)), as amended by section 301(a), is
 22 amended—

23 (1) by striking “and” at the end of paragraph
 24 (8);

1 (2) by striking the period at the end of para-
2 graph (9) and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(10) contain a description, developed after
5 consultation with tribal organizations (as defined in
6 section 4 of the Indian Self-Determination and Edu-
7 cation Assistance Act) in the State, of the specific
8 measures taken by the State to comply with the In-
9 dian Child Welfare Act.”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 subsection (a) shall be effective with respect to fiscal years
12 beginning on or after October 1, 1994.

13 **SEC. 304. CHILD WELFARE TRAINEESHIPS.**

14 (a) **IN GENERAL.**—Subpart 1 of part B of title IV
15 (42 U.S.C. 620–628) is amended by inserting after section
16 428 the following:

17 “CHILD WELFARE TRAINEESHIPS

18 “SEC. 429. The Secretary may approve an applica-
19 tion for a grant to a public or nonprofit institution for
20 higher learning to provide traineeships with stipends
21 under section 426(a)(1)(C) only if the application—

22 “(1) provides assurances that each individual
23 who receives a stipend with such traineeship (in this
24 section referred to as a ‘recipient’) will enter into an
25 agreement with the institution under which the re-
26 cipient agrees—

1 “(A) to participate in training at a public
2 or private nonprofit child welfare agency on a
3 regular basis (as determined by the Secretary)
4 for the period of the traineeship;

5 “(B) to be employed for a period of years
6 equivalent to the period of the traineeship, in a
7 public or private nonprofit child welfare agency
8 in any State, within a period of time (deter-
9 mined by the Secretary in accordance with reg-
10 ulations) after completing the postsecondary
11 education for which the traineeship was
12 awarded;

13 “(C) to furnish to the institution and the
14 Secretary evidence of compliance with subpara-
15 graphs (A) and (B); and

16 “(D) if the recipient fails to comply with
17 subparagraph (A) or (B) and does not qualify
18 for any exception to this subparagraph which
19 the Secretary may prescribe in regulations, to
20 repay to the Secretary all (or an appropriately
21 prorated part) of the amount of the stipend,
22 plus interest, and, if applicable, reasonable col-
23 lection fees (in accordance with regulations pro-
24 mulgated by the Secretary);

1 “(2) provides assurances that the institution
2 will—

3 “(A) enter into agreements with child wel-
4 fare agencies for onsite training of recipients;

5 “(B) permit an individual who is employed
6 in the field of child welfare services to apply for
7 a traineeship with a stipend if the traineeship
8 furthers the progress of the individual toward
9 the completion of degree requirements; and

10 “(C) develop and implement a system that,
11 for the 3-year period that begins on the date
12 any recipient completes a child welfare services
13 program of study, tracks the employment
14 record of the recipient, for the purpose of deter-
15 mining the percentage of recipients who secure
16 employment in the field of child welfare services
17 and remain employed in the field.”.

18 (b) CONFORMING AMENDMENT.—Section
19 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by in-
20 serting “described in section 429” after “including
21 traineeships”.

22 (c) APPLICABILITY.—The amendments made by this
23 section shall apply to grants awarded on or after October
24 1, 1994.

1 **SEC. 305. DISPOSITIONAL HEARING.**

2 (a) MOST APPROPRIATE SETTING.—Section
3 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by inserting
4 “and most appropriate” after “(most family like)”.

5 (b) TIMING OF SUBSEQUENT REVIEW.—Section
6 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking
7 “periodically” and inserting “not less frequently than
8 every 12 months”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on October 1, 1994.

11 **SEC. 306. ELIMINATION OF FOSTER CARE CEILINGS AND**
12 **OF AUTHORITY TO TRANSFER UNUSED FOS-**
13 **TER CARE FUNDS TO CHILD WELFARE SERV-**
14 **ICES PROGRAMS.**

15 (a) REPEAL.—Subsections (b) and (c) of section 474
16 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

17 (b) CONFORMING AMENDMENTS.—Section 474 (42
18 U.S.C. 674) is amended—

19 (1) in subsection (d)(1)—

20 (A) by striking “subsections (a), (b), and
21 (c)” and inserting “subsection (a)”; and

(B) by striking “the provisions of such
subsections” and inserting “subsection (a)”;
and

(2) by redesignating subsection (d) as sub-
section (b).

(c) **EFFECTIVE DATE.**—The amendments and repeals made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993.

SEC. 307. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1128B the following:

“**DEMONSTRATION PROJECTS**

“**SEC. 1129. (a) IN GENERAL.**—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

“(b) **WAIVER AUTHORITY.**—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

“(1) any provision of section 427 (as in effect before October 1, 1995), section 422(b)(9) (as in effect after such date), or section 479; or

“(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

“(c) TREATMENT AS PROGRAM EXPENDITURES.—

For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

“(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

“(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

“(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

“(2) a statement of the period during which the proposed project would be conducted;

“(3) a discussion of the benefits that are expected from the proposed project (compared to a

continuation of activities under the approved plan or plans of the State);

“(4) an estimate of the costs or savings of the proposed project;

“(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

“(6) a description of the proposed evaluation design; and

“(7) such additional information as the Secretary may require.

“(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

“(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

“(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

“(B) comparison of outcomes for children and families (and groups of children and fami-

lies) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

“(C) any other information that the Secretary may require; and

“(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

“(g) **COST NEUTRALITY.**—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.”.

SEC. 308. PLACEMENT ACCOUNTABILITY.

(a) **CASE PLAN REQUIREMENTS.**—Section 475(5)(A) (42 U.S.C. 675(5)(A)), as amended by section 305(a), is amended by adding at the end the following: “which—

“(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

“(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located.”.

(b) DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)), as amended by section 305(b), is amended by inserting “and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State

placement continues to be appropriate and in the best interests of the child,” after “long-term basis”).

1 (c) DATA COLLECTION.—Section 479(c)(3)(C) (42
2 U.S.C. 679(c)(3)(C)) is amended—

3 (1) by striking “and” at the end of clause (i);
4 and

5 (2) by adding at the end the following:

6 “(iii) children placed in foster care
7 outside the State which has placement and
8 care responsibility, and”.

9 (d) EFFECTIVE DATES.—The amendments made by
10 this section shall be effective with respect to fiscal years
11 beginning on or after October 1, 1994.

12 **SEC. 309. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE**
13 **AND ADOPTION ASSISTANCE.**

14 (a) IN GENERAL.—Section 474(b) (42 U.S.C.
15 674(b)), as redesignated by section 306(b)(2), is amended
16 by adding at the end the following:

17 “(4)(A) Within 60 days after receipt of a State claim
18 for expenditures pursuant to subsection (a), the Secretary
19 shall allow, disallow, or defer such claim.

20 “(B) Within 15 days after a decision to defer such
21 a State claim, the Secretary shall notify the State of the
22 reasons for the deferral and of the additional information
23 necessary to determine the allowability of the claim.

1 “(C) Within 90 days after receiving such necessary
2 information (in readily reviewable form), the Secretary
3 shall—

4 “(i) disallow the claim, if able to complete the
5 review and determine that the claim is not allowable,
6 or

7 “(ii) in any other case, allow the claim, subject
8 to disallowance (as necessary)—

9 “(I) upon completion of the review, if it is
10 determined that the claim is not allowable; or

11 “(II) on the basis of findings of an audit
12 or financial management review.”.

13 (b) **EFFECTIVE DATE.**—The amendment made by
14 subsection (a) shall be effective with respect to claims
15 made on or after the date of the enactment of this Act.

16 **SEC. 310. EFFECT OF FAILURE TO CARRY OUT STATE**
17 **PLAN.**

18 (a) **IN GENERAL.**—Part A of title XI (42 U.S.C.
19 1301–1320b–13), as amended by section 307, is amended
20 by inserting after section 1129 the following:

21 “**EFFECT OF FAILURE TO CARRY OUT STATE PLAN**

22 “**SEC. 1130.** In an action brought to enforce a provi-
23 sion of the Social Security Act, such provision is not to
24 be deemed unenforceable because of its inclusion in a sec-
25 tion of the Act requiring a State plan or specifying the
26 required contents of a State plan. This section is not in-

1 tended to limit or expand the grounds for determining the
 2 availability of private actions to enforce State plan re-
 3 quirements other than by overturning any such grounds
 4 applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992),
 5 but not applied in prior Supreme Court decisions respect-
 6 ing such enforceability: *Provided, however*, That this sec-
 7 tion is not intended to alter the holding in *Suter v. Artist*
 8 *M.* that section 471(a)(15) of the Act is not enforceable
 9 in a private right of action.”.

10 (b) APPLICABILITY.—The amendment made by sub-
 11 section (a) shall apply to actions pending on the date of
 12 the enactment of this Act and to actions brought on or
 13 after such date of enactment.

14 **Subtitle B—Child Support**

15 **Enforcement**

16 **SEC. 311. REPORTS TO CREDIT BUREAUS ON PERSONS DE-**

17 **LINQUENT IN CHILD SUPPORT PAYMENTS.**

18 (a) IN GENERAL.—Section 466(a)(7) (42 U.S.C.
 19 666(a)(7)) is amended—

20 (1) by striking “Procedures” and all that fol-
 21 lows through “request of such agency” and inserting
 22 “Procedures which require the State to periodically
 23 report to consumer reporting agencies (as defined in
 24 section 603(f) of the Fair Credit Reporting Act (15
 25 U.S.C. 1681a(f))) the name of any parent residing

1 in the State who owes overdue support and is at
 2 least 2 months delinquent in the payment of such
 3 support and the amount of such delinquency unless
 4 the agency requests not to receive such informa-
 5 tion”; and

6 (2) by striking “(C) a fee” and all that follows
 7 through “by the State” and inserting “(C) such in-
 8 formation shall not be made available to (i) a
 9 consumer reporting agency which the State deter-
 10 mines does not have sufficient capability to system-
 11 atically and timely make accurate use of such infor-
 12 mation, or (ii) an entity which has not furnished evi-
 13 dence satisfactory to the State that the entity is a
 14 consumer reporting agency”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 subsection (a) shall take effect on October 1, 1995.

17 **SEC. 312. TECHNICAL AMENDMENTS TO PROVISION ON**
 18 **STATE PATERNITY ESTABLISHMENT PRO-**
 19 **GRAMS.**

20 Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)), as
 21 amended by section 13721(a) of OBRA-1993, is
 22 amended—

23 (1) in clause (i), by striking “during the fiscal
 24 year”;

(2) in subclause (I) of clause (ii), by striking “as of the end of the fiscal year” and inserting “in the fiscal year or, at the option of the State, as of the end of such year”;

(3) in subclause (II) of clause (ii), by striking “or (E) as of the end of the fiscal year” and inserting “in the fiscal year or, at the option of the State, as of the end of such year”;

(4) in clause (iii), by striking “during the fiscal year”; and

(5) in the matter following clause (iii)—

(A) by striking “who were born out of wedlock during the immediately preceding fiscal year” and inserting “born out of wedlock”;

(B) by striking “such preceding fiscal year” both places it appears and inserting “the preceding fiscal year”; and

(C) by striking “or E” the second place it appears.

SEC. 313. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 463 (42 U.S.C. 663) is amended by adding at the end the following new subsection:

1 “(f) The Secretary shall enter into an agreement with
2 the Attorney General of the United States, under which
3 the services of the Parent Locator Service established
4 under section 453 shall be made available to the Office
5 of Juvenile Justice and Delinquency Prevention upon its
6 request to locate any parent or child on behalf of such
7 Office for the purpose of—

8 “(1) enforcing any State or Federal law with
9 respect to the unlawful taking or restraint of a child,
10 or

11 “(2) making or enforcing a child custody deter-
12 mination.

13 The Parent Locator Service shall charge no fees for serv-
14 ices requested pursuant to this subsection.”.

15 (b) CONFORMING AMENDMENT.—Section 463(c) (42
16 U.S.C. 663(c)) is amended by striking “(a), (b), or (e)”
17 and inserting “(a), (b), (e), or (f)”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on October 1, 1994.

1 **Subtitle C—Supplemental Security**
2 **Income**

3 **SEC. 321. DEFINITION OF DISABILITY FOR CHILDREN**
4 **UNDER AGE 18 APPLIED TO ALL INDIVIDUALS**
5 **UNDER AGE 18.**

6 (a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C.
7 1382c(a)(3)) is amended—

8 (1) in subparagraphs (A) and (H), by striking
9 “a child” each place it appears and inserting “an in-
10 dividual”; and

11 (2) in subparagraph (H), by striking “child”
12 the second and third place it appears and inserting
13 “individual”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply to determinations made on or
16 after the date of the enactment of this Act.

17 **SEC. 322. COMMISSION ON CHILDHOOD DISABILITY.**

18 (a) ESTABLISHMENT OF COMMISSION.—The Sec-
19 retary of Health and Human Services (in this section re-
20 ferred to as the “Secretary”) shall appoint a Commission
21 on the Evaluation of Disability in Children (in this section
22 referred to as the “Commission”).

23 (b) APPOINTMENT OF MEMBERS.—(1) The Secretary
24 shall appoint not less than 9 but not more than 15 mem-
25 bers to the Commission, including—

- 1 (A) recognized experts in the field of medicine,
2 whose work involves—
- 3 (i) the evaluation and treatment of disabili-
4 ty in children,
 - 5 (ii) the study of congenital, genetic, or
6 perinatal disorders in children, or
 - 7 (iii) the measurement of developmental
8 milestones and developmental deficits in chil-
9 dren; and
- 10 (B) recognized experts in the fields of—
- 11 (i) psychology,
 - 12 (ii) education and rehabilitation,
 - 13 (iii) law,
 - 14 (iv) the administration of disability pro-
15 grams,
 - 16 (v) social insurance (including health in-
17 surance), and
 - 18 (vi) other fields of expertise that the Sec-
19 retary determines to be appropriate.
- 20 (2) Members shall be appointed within 90 days after
21 the date of the enactment of this Act, without regard to
22 the provisions of title 5, United States Code, governing
23 appointments to competitive service.

1 (3) Members appointed under this subsection shall
2 serve for a term equivalent to the duration of the Commis-
3 sion.

4 (4) The Secretary shall designate a member of the
5 Commission to serve as Chair of the Commission for a
6 term equivalent to the duration of the Commission.

7 (c) ADMINISTRATIVE PROVISIONS.—(1) Service as a
8 member of the Commission by an individual who is not
9 otherwise a Federal employee shall not be considered serv-
10 ice in an appointive or elective position in the Federal Gov-
11 ernment for the purposes of any provision of title 5, Unit-
12 ed States Code.

13 (2) Each member of the Commission who is not a
14 full-time Federal employee shall be paid compensation at
15 a rate equal to the daily equivalent of the rate of basic
16 pay in effect for Level IV of the Executive Schedule for
17 each day (including travel time) the member attends meet-
18 ings or otherwise performs the duties of the Commission.

19 (3) While away from their homes or regular places
20 of business on the business of the Commission, each mem-
21 ber who is not a full-time Federal employee may be al-
22 lowed travel expenses, including per diem in lieu of sub-
23 sistence, as authorized by section 5703 of title 5, United
24 States Code, for persons employed intermittently in the
25 Government service.

1 (d) ASSISTANCE TO COMMISSION.—The Commission
2 may engage such technical assistance from individuals
3 skilled in medical and other aspects of childhood disability
4 as may be necessary to carry out the functions of the Com-
5 mission. The Secretary shall make available to the Com-
6 mission such secretarial, clerical, and other assistance as
7 the Commission may require to carry out the functions
8 of the Commission.

9 (e) STUDY BY THE COMMISSION.—(1) The Commis-
10 sion shall conduct a study, in consultation with the Na-
11 tional Academy of Sciences, of the effects of the definition
12 of “disability” under title XVI of the Social Security Act
13 (42 U.S.C. 1382 et seq.) in effect on the date of enactment
14 of this Act, as such definition applies to determining
15 whether a child under the age of 18 is eligible to receive
16 benefits under such title, the appropriateness of such defi-
17 nition, and the advantages and disadvantages of using any
18 alternative definition of disability in determining whether
19 a child under age 18 is eligible to receive benefits under
20 such title.

21 (2) The study described in paragraph (1) shall in-
22 clude issues of—

23 (A) whether the need by families for assistance
24 in meeting high costs of medical care for children
25 with serious physical or mental impairments, wheth-

er or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs (including the program of medical assistance under title XIX of such Act); and

(B) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1995, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 30, 1995.

SEC. 323. EXEMPTION FROM PASS-ALONG REQUIREMENTS.

(a) IN GENERAL.—Section 1618 (42 U.S.C. 1382g) is amended by adding at the end the following new subsection:

“(h) For purposes of determining under subsection (b) of this section whether a State’s expenditures for supplementary payments in the twelve-month period beginning on the effective date of any increase in the level of

1 supplemental security income benefits are not less than
 2 its expenditures for such payments in the preceding
 3 twelve-month period, the Secretary, in computing the
 4 State's expenditures, shall disregard, pursuant to the one-
 5 time election of such State, all expenditures by such State
 6 for retroactive supplementary payments that are required
 7 to be made in connection with the retroactive supplemental
 8 security income benefits referred to in section 5041 of the
 9 Omnibus Budget Reconciliation Act of 1990.”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall be effective on, before, and after the
 12 date of the enactment of this Act.

13 **Subtitle D—Aid to Families With** 14 **Dependent Children**

15 **SEC. 331. SIMPLIFICATION OF INCOME AND ELIGIBILITY** 16 **VERIFICATION SYSTEM.**

17 Paragraph (1)(A) of section 1137(d) (42 U.S.C.
 18 1320b–7(d)) is amended to read as follows:

19 “(1)(A) The State shall require, as a condition
 20 of an individual's eligibility for benefits under a pro-
 21 gram listed in subsection (b), a declaration in writ-
 22 ing, under penalty of perjury—

23 “(i) by the individual,

24 “(ii) in the case in which eligibility for pro-
 25 gram benefits is determined on a family or

household basis, by any adult member of such individual's family or household (as applicable), or

“(iii) in the case of an individual born into a family or household receiving benefits under such program, by any adult member of such family or household no later than the next re-determination of eligibility of such family or household following the birth of such individual, stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.”.

SEC. 332. MEASUREMENT AND REPORTING OF WELFARE RECEIPT.

(a) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which and the degree to which families depend on income from welfare programs and the duration of welfare receipt, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and

1 that the life prospects of children are improved, and
 2 to underscore the responsibility of parents to sup-
 3 port their children;

4 (3) the Federal Government should help welfare
 5 recipients as well as individuals at risk of welfare re-
 6 ceipt to improve their education and job skills, to ob-
 7 tain child care and other necessary support services,
 8 and to take such other steps as may be necessary to
 9 assist them to become financially independent; and

10 (4) it is the purpose of this section to provide
 11 the public with generally accepted measures of wel-
 12 fare receipt so that it can track such receipt over
 13 time and determine whether progress is being made
 14 in reducing the rate at which and, to the extent fea-
 15 sible, the degree to which, families depend on income
 16 from welfare programs and the duration of welfare
 17 receipt.

18 (b) DEVELOPMENT OF WELFARE INDICATORS AND
 19 PREDICTORS.—The Secretary of Health and Human Serv-
 20 ices (in this section referred to as the “Secretary”) in con-
 21 sultation with the Secretary of Agriculture shall—

22 (1) develop—

23 (A) indicators of the rate at which and, to
 24 the extent feasible, the degree to which, families

1 depend on income from welfare programs and
2 the duration of welfare receipt; and

3 (B) predictors of welfare receipt;

4 (2) assess the data needed to report annually
5 on the indicators and predictors, including the abil-
6 ity of existing data collection efforts to provide such
7 data and any additional data collection needs; and

8 (3) not later than 2 years after the date of the
9 enactment of this section, provide an interim report
10 containing conclusions resulting from the develop-
11 ment and assessment described in paragraphs (1)
12 and (2), to—

13 (A) the Committee on Ways and Means of
14 the House of Representatives;

15 (B) the Committee on Education and
16 Labor of the House of Representatives;

17 (C) the Committee on Agriculture of the
18 House of Representatives;

19 (D) the Committee on Energy and Com-
20 merce of the House of Representatives;

21 (E) the Committee on Finance of the Sen-
22 ate;

23 (F) the Committee on Labor and Human
24 Resources of the Senate; and

1 (G) the Committee on Agriculture, Nutri-
2 tion, and Forestry of the Senate.

3 (c) ADVISORY BOARD ON WELFARE INDICATORS.—

4 (1) ESTABLISHMENT.—There is established an
5 Advisory Board on Welfare Indicators (in this sub-
6 section referred to as the “Board”).

7 (2) COMPOSITION.—The Board shall be com-
8 posed of 12 members with equal numbers to be ap-
9 pointed by the House of Representatives, the Senate,
10 and the President. The Board shall be composed of
11 experts in the fields of welfare research and welfare
12 statistical methodology, representatives of State and
13 local welfare agencies, and organizations concerned
14 with welfare issues.

15 (3) VACANCIES.—Any vacancy occurring in the
16 membership of the Board shall be filled in the same
17 manner as the original appointment for the position
18 being vacated. The vacancy shall not affect the
19 power of the remaining members to execute the du-
20 ties of the Board.

21 (4) DUTIES.—Duties of the Board shall
22 include—

23 (A) providing advice and recommendations
24 to the Secretary on the development of indica-
25 tors of the rate at which and, to the extent fea-

1 sible, the degree to which, families depend on
2 income from welfare programs and the duration
3 of welfare receipt; and

4 (B) providing advice on the development
5 and presentation of annual reports required
6 under subsection (d).

7 (5) TRAVEL EXPENSES.—Members of the
8 Board shall not be compensated, but shall receive
9 travel expenses, including per diem in lieu of subsist-
10 ence, at rates authorized for employees of agencies
11 under subchapter I of chapter 57 of title 5, United
12 States Code, for each day the member is engaged in
13 the performance of duties away from the home or
14 regular place of business of the member.

15 (6) DETAIL OF FEDERAL EMPLOYEES.—The
16 Secretary shall detail, without reimbursement, any
17 of the personnel of the Department of Health and
18 Human Services to the Board to assist the Board in
19 carrying out its duties. Any detail shall not interrupt
20 or otherwise affect the civil service status or privi-
21 leges of the Federal employee.

22 (7) VOLUNTARY SERVICE.—Notwithstanding
23 section 1342 of title 31, United States Code, the
24 Board may accept the voluntary services provided by
25 a member of the Board.

1 (8) TERMINATION OF BOARD.—The Board shall
2 be terminated at such time as the Secretary deter-
3 mines the duties described in paragraph (4) have
4 been completed, but in any case prior to the submis-
5 sion of the first report required under subsection
6 (d).

7 (d) ANNUAL WELFARE INDICATORS REPORT.—

8 (1) PREPARATION.—The Secretary shall pre-
9 pare annual reports on welfare receipt in the United
10 States.

11 (2) COVERAGE.—The report shall include anal-
12 ysis of families and individuals receiving assistance
13 under means-tested benefit programs, including the
14 program of aid to families with dependent children
15 under part A of title IV of the Social Security Act
16 (42 U.S.C. 601 et seq.), the food stamp program
17 under the Food Stamp Act of 1977 (7 U.S.C. 2011
18 et seq.), and the Supplemental Security Income pro-
19 gram under title XVI of the Social Security Act (42
20 U.S.C. 1381 et seq.), or as general assistance under
21 programs administered by State and local govern-
22 ments.

23 (3) CONTENTS.—Each report shall set forth for
24 each of the means-tested benefit programs described
25 in paragraph (2)—

(A) indicators of—

(i) the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs, and

(ii) the duration of welfare receipt;

(B) trends in indicators;

(C) predictors of welfare receipt;

(D) the causes of welfare receipt;

(E) patterns of multiple program receipt;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

(i) the rate at which and the degree to which families depend on income from welfare programs, and

(ii) the duration of welfare receipt.

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section and annually thereafter, to the committees specified in subsection

1 (b)(3)(C). Each such report shall be transmitted
2 during the first 60 days of each regular session of
3 Congress.

4 (e) SHORT TITLE.—This section may be cited as the
5 “Welfare Indicators Act of 1993”.

6 **SEC. 333. NEW HOPE DEMONSTRATION PROJECT.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services (in this section referred to as the “Sec-
9 retary”) shall provide for a demonstration project for a
10 qualified program to be conducted in Milwaukee, Wiscon-
11 sin, in accordance with this section.

12 (b) PAYMENTS.—For each calendar quarter in which
13 there is a qualified program approved under this sub-
14 section, the Secretary shall pay to the operator of the
15 qualified program, for no more than 20 calendar quarters,
16 an amount equal to the aggregate amount that would oth-
17 erwise have been payable to the State with respect to par-
18 ticipants in the program for such calendar quarter, in the
19 absence of the program, for cash assistance and child care
20 under part A of title IV of the Social Security Act, for
21 medical assistance under title XIX of such Act, and for
22 administrative expenses related to such assistance. The
23 amount payable to the operator of the program under this
24 section shall not include the costs of evaluating the effects
25 of the program.

1 (c) DEMONSTRATION PROJECT DESCRIBED.—For
2 purposes of this section, the term “qualified program”
3 means a program operated—

4 (1) by The New Hope Project, Inc., a private,
5 not-for-profit corporation incorporated under the
6 laws of the State of Wisconsin (in this section re-
7 ferred to as the “operator”), which offers low-income
8 residents of Milwaukee, Wisconsin, employment,
9 wage supplements, child care, health care, and coun-
10 seling and training for job retention or advancement;
11 and

12 (2) in accordance with an application submitted
13 by the operator of the program and approved by the
14 Secretary based on the Secretary’s determination
15 that the application satisfies the requirements of
16 subsection (d).

17 (d) CONTENTS OF APPLICATION.—The operator of
18 the qualified program shall provide, in its application to
19 conduct a demonstration project for the program, that the
20 following terms and conditions will be met:

21 (1) The operator will develop and implement an
22 evaluation plan designed to provide valid and reliable
23 information on the impact and implementation of
24 the program. The evaluation plan will include ade-

1 quately sized groups of project participants and con-
2 trol groups assigned at random.

3 (2) The operator will develop and implement a
4 plan addressing the services and assistance to be
5 provided by the program, the timing and determina-
6 tion of payments from the Secretary to the operator
7 of the program, and the roles and responsibilities of
8 the Secretary and the operator with respect to meet-
9 ing the requirements of this paragraph.

10 (3) The operator will specify a reliable meth-
11 odology for determining expenditures to be paid to
12 the operator by the Secretary, with assistance from
13 the Secretary in calculating the amount that would
14 otherwise have been payable to the State in the ab-
15 sence of the program, pursuant to subsection (b).

16 (4) The operator will issue an interim and final
17 report on the results of the evaluation described in
18 paragraph (1) to the Secretary at such times as re-
19 quired by the Secretary.

20 (e) EFFECTIVE DATE.—This section shall take effect
21 on the first day of the first calendar quarter that begins
22 after the date of the enactment of this Act.

1 **SEC. 334. DELAY IN REQUIREMENT THAT OUTLYING**
 2 **AREAS OPERATE AN AFDC-UP PROGRAM.**

3 (a) **IN GENERAL.**—Section 401(g)(2) of the Family
 4 Support Act of 1988 (42 U.S.C. 602 note; 102 Stat.
 5 2396) is amended by striking “October 1, 1992” and in-
 6 serting “the date of the repeal of the limitations contained
 7 in section 1108(a) of the Social Security Act on payments
 8 to such jurisdictions for purposes of making maintenance
 9 payments under parts A and E of title IV of such Act”.

10 (b) **EFFECTIVE DATE.**—The amendment made by
 11 subsection (a) shall take effect as if included in the provi-
 12 sion of the Family Support Act of 1988 to which the
 13 amendment relates at the time such provision became law.

14 **SEC. 335. NEW YORK STATE CHILD SUPPORT DEMONSTRA-**
 15 **TION PROGRAM.**

16 (a) **EXTENSION.**—Section 9122(g)(1) of OBRA-
 17 1987 is amended by striking “five” and inserting “10”.

18 (b) **PAYMENT OF EVALUATION COSTS.**—Section
 19 9122(b) of OBRA-1987 is amended by adding at the end
 20 the following new flush sentence: “Payment to the State
 21 under this section shall not include the costs of evaluating
 22 the effects of the program.”.

23 (c) **EFFECTIVE DATES.**—

24 (1) **EXTENSION.**—The amendment made by
 25 subsection (a) shall take effect on the date of the en-
 26 actment of this Act.

1 (2) PAYMENT.—The amendment made by sub-
 2 section (b) shall take effect on April 1, 1994.

3 **SEC. 336. STATE OPTION TO USE RETROSPECTIVE BUDG-**
 4 **ETING WITHOUT MONTHLY REPORTING.**

5 (a) IN GENERAL.—Section 402(a)(13) (42 U.S.C.
 6 602(a)(13)) is amended—

7 (1) by striking all that precedes subparagraph
 8 (A) and inserting the following:

9 “(13) provide, at the option of the State and
 10 with respect to such category or categories as the
 11 State may select and identify in the State plan,
 12 that—”; and

13 (2) in each of subparagraphs (A) and (B), by
 14 striking “, in the case of families who are required
 15 to report monthly to the State agency pursuant to
 16 paragraph (14)”.

17 (b) EFFECTIVE DATE.—The amendment made by
 18 subsection (a) shall take effect on October 1, 1993, and
 19 shall apply to payments under part A of title IV of the
 20 Social Security Act for fiscal year 1993 and such pay-
 21 ments for succeeding fiscal years.

22 **Subtitle E—JOBS Program**

23 **SEC. 341. EXPANSION OF COVERAGE FOR INDIAN TRIBES.**

24 (a) IN GENERAL.—Section 482(i)(2)(A) (42 U.S.C.
 25 682(i)(2)(A)) is amended by striking “members of such

1 Indian tribe receiving aid to families with dependent chil-
 2 dren” and inserting “Indians receiving aid to families with
 3 dependent children who reside on the reservation or within
 4 the designated service area”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 subsection (a) shall take effect on October 1, 1994.

7 **SEC. 342. REPORT TO THE CONGRESS WITH RESPECT TO**
 8 **PERFORMANCE STANDARDS IN THE JOBS**
 9 **PROGRAM.**

10 Section 487(a) (42 U.S.C. 687(a)) is amended—

11 (1) by striking “3” and inserting “4”;

12 (2) in paragraph (1), by inserting “criteria for”
 13 after “develop”;

14 (3) in paragraph (2), by striking “for” and in-
 15 serting “with respect to”; and

16 (4) in the second sentence, by striking “under
 17 this subsection” and inserting “with respect to the
 18 program under this part”.

19 **Subtitle F—Unemployment**
 20 **Insurance**

21 **SEC. 351. EXTENSION OF REPORTING DATE FOR ADVISORY**
 22 **COUNCIL.**

23 In the case of the first Advisory Council on Unem-
 24 ployment Compensation established under section 908 of

1 the Social Security Act (42 U.S.C. 1108), subsection (f)
2 of such section 908 shall be applied—

3 (1) by substituting “3rd year” for “second
4 year” in paragraph (1), and

5 (2) by substituting “February 1, 1995” for
6 “February 1, 1994” in paragraph (2).

7 **SEC. 352. TECHNICAL AMENDMENT TO UNEMPLOYMENT**
8 **TRUST FUND.**

9 Paragraph (1) of section 905(b) (42 U.S.C. 1105(b))
10 is amended to read as follows:

11 “(b)(1) Except as provided in paragraph (3), the Sec-
12 retary of the Treasury shall transfer (as of the close of
13 each month), from the employment security administra-
14 tion account to the extended unemployment compensation
15 account established by subsection (a), an amount equal to
16 20 percent of the amount by which—

17 “(A) the transfers to such account pursuant to
18 section 901(b)(2) during such month, exceed

19 “(B) the payments during such month from the
20 employment security administration account pursu-
21 ant to section 901(b)(3) and (d).

22 If for any month the payments referred to in subpara-
23 graph (B) exceed the transfers referred to in subpara-
24 graph (A), proper adjustments shall be made in the
25 amounts subsequently transferred.”.

Subtitle G—Other Provisions

SEC. 361. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

(a) IN GENERAL.—Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2404) is amended—

(1) in subsection (e), by striking “3-year period” and inserting “5-year period”,

(2) in subsection (f)(2), by striking “January 1, 1993” and inserting “January 1, 1995”, and

(3) in subsection (g), by striking “1991, and 1992” and inserting “1991, 1992, 1993, 1994, and 1995”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993.

SEC. 362. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:

“(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed \$3,000,000 for each of the fiscal years 1994 through 1998.”.

1 **SEC. 363. REALLOCATION OF FUNDS UNDER TITLE XX FOR**
 2 **EMPOWERMENT AND ENTERPRISE GRANTS.**

3 Section 2007 (42 U.S.C. 1397f), as added by section
 4 13761 of OBRA-1993, is amended—

5 (1) by redesignating subsection (e) as sub-
 6 section (f); and

7 (2) by inserting after subsection (d) the follow-
 8 ing new subsection:

9 “(e) REALLOCATION OF REMAINING FUNDS.—

10 “(1) REMITTED AMOUNTS.—The amount speci-
 11 fied in section 2003(c) for any fiscal year is hereby
 12 increased by the total of the amounts remitted dur-
 13 ing the fiscal year pursuant to subsection (d) of this
 14 section.

15 “(2) AMOUNTS NOT PAID TO THE STATES.—
 16 The amount specified in section 2003(c) for fiscal
 17 year 1998 is hereby increased by the amount made
 18 available for grants under this section that has not
 19 been paid to any State by the end of fiscal year
 20 1997.”.

21 **SEC. 364. CORRECTIONS RELATED TO THE INCOME SECU-**
 22 **RITY AND HUMAN RESOURCES PROVISIONS**
 23 **OF THE OBRA-1990.**

24 (a) AMENDMENT RELATED TO SECTION
 25 5035(a)(2).—Section 5035(a)(2) of OBRA-1990 is

1 amended by striking “a semicolon” and inserting
2 “‘; and’”.

3 (b) AMENDMENT RELATED TO SECTION 5040.—Sec-
4 tion 1631(n) (42 U.S.C. 1383(n)) is amended by striking
5 “subsection” and inserting “section”.

6 (c) AMENDMENT RELATED TO SECTION 5051(a).—
7 Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended to
8 read as follows:

9 “(14) at the option of the State and with re-
10 spect to such category or categories as the State
11 may select and identify in the plan, provide that—

12 “(A) the State agency will require each
13 family to which the State provides (or, but for
14 paragraph (22) or (32), would provide) aid to
15 families with dependent children, as a condition
16 to the continued receipt of such aid (or to con-
17 tinuing to be deemed to be a recipient of such
18 aid), to report to the State agency monthly (or
19 less frequently in the case of such categories of
20 recipients as the State may select) on—

21 “(i) the income of the family, the
22 composition of the family, and other rel-
23 evant circumstances during the prior
24 month; and

1 “(ii) the income and resources the
2 family expects to receive, or any changes in
3 circumstances affecting continued eligi-
4 bility for, or amount of benefits, the family
5 expects to occur, in that month or in fu-
6 ture months; and

7 “(B) in addition to any action that may be
8 appropriate based on other reports or informa-
9 tion received by the State agency, the State
10 agency will—

11 “(i) take prompt action to adjust the
12 amount of assistance payable, as may be
13 appropriate, on the basis of the informa-
14 tion contained in the report (or upon the
15 failure of the family to submit a timely re-
16 port); and

17 “(ii) give the family an appropriate
18 explanatory notice concurrent with any ac-
19 tion taken under clause (i);”.

20 (d) REPEAL OF PROVISION INADVERTENTLY IN-
21 CLUDED.—Section 5057 of OBRA-1990, and the amend-
22 ment made by such section, are hereby repealed, and sec-
23 tion 1139(d) of the Social Security Act shall be applied
24 and administered as if such section 5057 had never been
25 enacted.

1 (e) AMENDMENT RELATED TO SECTION
2 5105(d)(1)(B).—Subparagraphs (E) and (F) of section
3 1631(a)(2) (42 U.S.C. 1383(a)(2)) are amended to read
4 as follows:

5 “(E) In cases where the negligent failure of the Sec-
6 retary to investigate or monitor a representative payee re-
7 sults in misuse of benefits by the representative payee, the
8 Secretary shall make payment to the beneficiary or the
9 beneficiary’s representative payee of an amount equal to
10 such misused benefits. The Secretary shall make a good
11 faith effort to obtain restitution from the terminated rep-
12 resentative payee.

13 “(F) The Secretary shall include as a part of the an-
14 nual report required under section 704 information with
15 respect to the implementation of the preceding provisions
16 of this paragraph, including—

17 “(i) the number of cases in which the represent-
18 ative payee was changed;

19 “(ii) the number of cases discovered where
20 there has been a misuse of funds;

21 “(iii) how any such cases were dealt with by the
22 Secretary;

23 “(iv) the final disposition of such cases (includ-
24 ing any criminal penalties imposed); and

1 “(v) such other information as the Secretary
2 determines to be appropriate.”.

3 (f) AMENDMENT RELATED TO SECTION
4 5105(a)(1)(B).—The second paragraph of section 1631(a)
5 (42 U.S.C. 1383(a)) is amended by striking “(A)(i) Pay-
6 ments” and inserting “(2)(A)(i) Payments”.

7 (g) AMENDMENTS RELATED TO SECTION 5105(b).—
8 Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is
9 amended—

10 (1) in clause (i), by striking “to representative”
11 and inserting “to a representative”;

12 (2) by striking clause (ii);

13 (3) by redesignating clauses (iii), (iv), and (v)
14 as clauses (ii), (iii), and (iv), respectively; and

15 (4) in clause (iv) (as so redesignated), by strik-
16 ing “(iii), and (iv)” and inserting “and (iii)”.

17 (h) AMENDMENTS RELATED TO SECTION
18 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C.
19 1383(c)(1)(B)) is amended by striking “paragraph (1)”
20 each place such term appears and inserting “subpara-
21 graph (A)”.

22 (i) AMENDMENT RELATED TO SECTION
23 5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended
24 by redesignating the subsection (n) added by section
25 5109(a)(2) of OBRA-1990, as subsection (o).

1 (j) AMENDMENTS RELATED TO SECTION
 2 11115(b)(2).—Section 11115(b)(2) of OBRA-1990 is
 3 amended—

4 (1) in subparagraph (A), by striking “para-
 5 graph (8)” and inserting “paragraph (9)”;

6 (2) in subparagraph (B), by striking “para-
 7 graph (9)” and inserting “paragraph (10)”;

8 (3) in subparagraph (C), by redesignating the
 9 new paragraph added thereby as paragraph (11).

10 (k) EFFECTIVE DATE.—Each amendment made by
 11 this section shall take effect as if included in the provision
 12 of OBRA-1990 to which the amendment relates at the
 13 time such provision became law.

14 **SEC. 365. TECHNICAL CORRECTIONS RELATED TO THE**
 15 **HUMAN RESOURCE AND INCOME SECURITY**
 16 **PROVISIONS OF THE OBRA-1989.**

17 (a) AMENDMENT RELATING TO SECTION 8004(a).—
 18 Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is
 19 amended by striking “a fiscal” and inserting “the fiscal”.

20 (b) AMENDMENT RELATING TO SECTION 8006(a).—
 21 Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amend-
 22 ed by striking “474(a)(3)(B)” and inserting
 23 “474(a)(3)(C)”.

24 (c) AMENDMENT RELATING TO SECTION
 25 8007(b)(3).—Subparagraph (D) of section 475(5) (42

1 U.S.C. 675(5)(D)) is amended by moving such subpara-
 2 graph 2 ems to the right so that the left margin of such
 3 subparagraph is aligned with the left margin of subpara-
 4 graph (C) of such section.

5 (d) **EFFECTIVE DATE.**—Each amendment made by
 6 this section shall take effect as if the amendment had been
 7 included in the provision of OBRA-1989 to which the
 8 amendment relates, at the time the provision became law.

9 **SEC. 366. TECHNICAL CORRECTION RELATED TO THE**
 10 **HUMAN RESOURCE AND INCOME SECURITY**
 11 **PROVISIONS OF THE OBRA-1993.**

12 (a) **AMENDMENT RELATING TO SECTION**
 13 **13713(a).**—Section 473(a)(6)(B) (42 U.S.C.
 14 673(a)(6)(B)) is amended by striking “474(a)(3)(C)” and
 15 inserting “474(a)(3)(E)”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
 17 this section shall take effect as if the amendment had been
 18 included in the provision of OBRA-1993 to which the
 19 amendment relates, at the time the provision became law.

20 **SEC. 367. ELIMINATION OF OBSOLETE PROVISIONS RELAT-**
 21 **ING TO TREATMENT OF THE EARNED IN-**
 22 **COME TAX CREDIT.**

23 (a) **TREATMENT OF EITC AS EARNED INCOME.**—
 24 Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended
 25 by striking subparagraph (C) and by redesignating sub-

1 paragraphs (D) and (E) as subparagraphs (C) and (D),
2 respectively.

3 (b) ADJUSTMENT OF BENEFITS DUE TO TREAT-
4 MENT OF EITC AS EARNED INCOME.—Section 1631(b)
5 (42 U.S.C. 1383(b)) is amended by striking paragraph (3)
6 and by redesignating paragraphs (4) and (5) as para-
7 graphs (3) and (4), respectively.

8 **SEC. 368. REDESIGNATION OF CERTAIN PROVISIONS.**

9 Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amend-
10 ed by redesignating subparagraphs (1) and (2) as sub-
11 paragraphs (A) and (B), respectively.



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Calendar No. 295

103D CONGRESS
1ST SESSION

S. 1668

A BILL

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

NOVEMBER 17 (legislative day, NOVEMBER 2), 1993

Placed on the calendar